GOVERNMENT OF MADRAS

RECOMMENDATIONS OF ADJUDICATORS INDUSTRIAL TRIBUNALS AND COURTS OF ENQUIRY

IN RESPECT OF LABOUR DISPUTES DURING THE FIRST HALF OF 1948

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LIST OF ORDERS OF GOVERNMENT ON THE RECOMMENDATIONS OF INDUSTRIAL TRIBUNALS OR ADJUDICATORS.

I

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA AT TINNEVELLY.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MAHALAKSHMI TEXTILE MILLS, LIMITED

and

THE WORKERS.

Subject.—1. *Whether the "Hartal" on 11th September* **1947** *is not a "strike".*—*Held* that the cessation of work on 11th September 1947 is a strike, that as it was not preceded by the 14 days' notice as enjoined by the Statute, it is illegal.

2. *Whether the lockout declared by the management on 12th September 1947 is legal and justifiable.*—*Held* that a lockout declared in consequence of an illegal strike shall not be deemed to be illegal.

G.O. Ms. No. 83, Development, dated 7th January 1948.

[Labour—Disputes—Dispute between the workers and the management of the Mahalakshmi Textile Mills, Limited, Pasumalai—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers:—

(1)

G.O. Ms. No. 1584, Development, dated 24th September 1947.

(2)

From the Industrial Tribunal, Madura, dated 9th December 1947.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA AT TINNEVELLY.

PRESENT:

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A B.L.,

Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 3 OF 1947.

The workers of Mahalakshmi Textile Mills, Limited, Pasumalai, Madura

versus

The Management of Mahalakshmi Textile Mills

AWARD.

UNDER SECTION 16 OF THE INDUSTRIAL DISPUTES ACT, 1947.

1. On the 11th of September 1947, the workers of Mahalakshmi Textile mills observed a *hartal* and struck work on that day, on the score, that the management of the mills did not implement the interim award passed by Mr. Venkataramayya as Industrial Tribunal. It is common ground that 14 days' notice had not been given before the strike on the 11th September. On the 12th September, the management declared a lockout on the score that the strike was illegal for want of the statutory notice and wired to the Government that they had no objection to the dispute being referred to this Tribunal. Under G.O. Ms. No. 4584, Development, dated 24th September 1947, the Government have directed this tribunal to adjudicate on the dispute that has arisen consequent on the strike by the workers on 11th September and the lockout by the management from 12th September.

2. On 25th September, another Government Order was issued by the Government prohibiting the continuance of lockout and strike under section 10 (3) of the Act as the dispute had been referred for adjudication.

3. It is contended by the workers that the one day *hartal* on 11th September would not amount to a " strike " as defined in the Act and that, therefore, 14 days' notice was not necessary. It is, further, contended that the lockout is illegal. The management, on the other hand, maintained that the strike was illegal and that, therefore, the lockout was justifiable.

4. The issues are—

(i) Whether the " hartal " on the 11th September 1947 would not amount to a " strike " and cannot be deemed illegal.

(ii) Whether the lockout declared on 12th September is legal and justifiable.

5. *First issue.*—" Hartal " is a Hindustani term. The advocate for the mills placed before me a dictionary containing English equivalents for Hindustani terms. There, I found the English equivalent for " hartal " to be " strike ". But the advocate for the workers maintained that " hartal " is not " strike " within the meaning of the definition found in the Act. He referred me to Appendix XV of the printed award of Mr. Venkataramayya regarding textile mills. It is found in the pages 99 to 101 of printed award. It is a statement showing the strikes that took place in Coimbatore district in the year 1946. It is found in page 100 that 5 mills in Coimbatore struck work on the 8th May 1946 and that the reason for the strike was to observe " hartal " in memory of late Mr. Desai. I am not able to understand how those entries support the workers' interpretation. On the other hand, it appears

to be against their interpretation. We are not now concerned with the reasons or the motive which actuated the workers to stay away from the mills and stop work on the 11th September. Whether the management had implemented the interim award or not is also beside the point. If the award had not been implemented as contended by the workers, they might be entitled to resort to a strike. But, if they do want to go on strike, it must be preceded by 14 days' notice to the management. It is admitted that 14 days' notice had not been given as required under section 22 of the Act.

6. I am not prepared to accept the *ipsi dixit* of the workers that "hartal" is not "strike". "Strike" is defined in the Act as cessation of work by a body of persons employed in any industry acting in combination, or a concerted refusal, or a refusal under a common understanding of any number of persons who are or have been so employed to continue to work or to accept employment. That the workers should attend the mills on working days and work during the stipulated hours is an implied term of the contract between the management and the workers. In this connection, my attention was drawn to proviso to section 9 of the Payment and Wages Act. That the workers did not propose to suspend work for more than a day or that their contention that the interim award was not implemented might be found to be sustainable, are not relevant for determining whether the requirements of the statute regarding strikes have been complied with or not.

7. The very Government order directing adjudication recites that there was a strike by the workers on the 11th September and that a lockout was declared on the subsequent day by the management. It is idle to contend that a "hartal" is not a "strike".

8. I hold that the failure of the workers to attend the mills and do their allotted work during the working hours of 11th September is a "strike" as defined in the Act and that, as it had not been preceded by the 14 days' notice to the management as enjoined by the statute, it was illegal. The first issue is found accordingly and against the workers.

9. *Second issue.*—Under section 24 of the Act (clause 3), a lockout declared in consequence of an illegal strike, shall not be deemed to be illegal. In view of my finding on the first issue, I find the second issue in favour of the management of the mills and I hold that the lockout is legal.

Order—Ms. No. 83, Development, dated 7th January 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the industrial dispute between the workers and the management of the Mahalakshmi Textile Mills, Limited, Pasumalai, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2), read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Mahalakshmi Textile Mills, Limited, Pasumalai, and the workers employed therein and directs that the said award shall come into operation on the 7th January 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

II

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA AT TINNEVELLY.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MAHALAKSHMI TEXTILE MILLS, LIMITED

and

THE WORKERS.

Subject.—Bonus—Whether the workers should be paid bonus for the year 1946 and, if so, at what rate.—Held that under the Award of Mr. Venkataramayya, pending disputes regarding bonus for 1946 should be disposed of on the principles on which bonus was declared in the previous years.

Held that the Mills has not followed any consistent principle in the declaration of bonus.

Held that one-fifth of the profits already declared as bonus for Deepavali is adequate and that workers cannot claim any amount as bonus besides the Deepavali Bonus already paid to them.

G.O. Ms. No. 84, Development, dated 7th January 1948.

[Labour—Disputes—Dispute between the workers and the management of the Mahalakshmi Textile Mills, Limited—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1239, Development, dated 1st September 1947.

(2)

From the Industrial Tribunal, Madura, dated 9th December **1947.**

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA AT TINNEVELLY.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 2 OF 1947.

The workers of Mahalakshmi Textile Mills, Limited, Pasumalai, Madura

versus

The Management of Mahalakshmi Textile Mills.

AWARD.

UNDER SECTION 16 OF THE INDUSTRIAL DISPUTES ACT. 1947.

1. This dispute relates to a claim made by the workers of the mills for 3 months' wages as bonus for the year 1946.

2. The management of the mills have already paid one month's wages as bonus (they call it *Deepavali bonus*). They refused to pay 3 months' wages as bonus. As the parties could not come to an amicable settlement, the dispute has been referred to me for adjudication (vide G.O. Ms. No. 4289, Development, dated 1st September 1947).

3. The case of the management is this. The profits in the year 1946 were as low as Rs. 85,716; if 30 per cent dividend should be declared, the workers could claim 3 months' wages as bonus; if 10 per cent should be the dividend, the workers could claim only a month's wages; since only 5 per cent has been declared as dividend in 1946, the workers could claim only ½ a month's wages as bonus; but, as already one month's wages has been paid as bonus on the Deepavali occasion, the demand of the workers for 3 months' wages is not justifiable and the demand is, therefore, unsustainable.

4. The issue is: whether the workers are entitled to " prosperity " bonus for the year 1946 and, if so, at what rate.

5. What is paid on the Deepavali occasion, i.e., to say a month's salary is styled " Deepavali bonus " and what is paid as yearly bonus is styled " prosperity " bonus for the obvious reason that bonus must depend upon the prosperous working of the mills, i.e., to say, the profits earned in the year. It is stated, on behalf of the management, that, when the yearly bonus is distributed to the workers, the bonus paid during Deepavali occasion is also taken into account.

6. A tabular statement is appended to the statement filed by the management in answer to the claim of the workers. The table

gives the particulars of net profit, dividend, prosperity bonus and Deepavali bonus with regard to 6 years—1941 to 1946. In the years 1942 and 1943, the profits mounted to 9 lakhs and odd and 8 lakhs and odd. From 1944, the profits showed a decline—Rs. 2½ lakhs in 1944, Rs. 1,70,000 in 1945 and Rs. 85,700 in 1946. The dividends also began to dwindle from 1942—20 per cent in 1942, 12 per cent in 1943, 7½ per cent in 1944 and 1945 and 5 per cent in 1946.

7. In paragraph 92 of the award of the Industrial Tribunal by Mr. Venkataramayya, he stated that in respect of the year 1946 in all these cases where bonus has been the subject-matter of a pending dispute or where it has not yet been declared on the results of the year 1946, each case will have to be disposed of on the principles on which bonus was paid in the previous years by that particular concern. If we now turn to the tabular statement filed by the management, it will be seen that no principle appears to have been followed either in the manner of determining the rate of dividend or in the matter of determining the rate of bonus in the years 1943, 1944, 1945 and 1946. It will be further seen that the amount of bonus paid in the years 1943, 1944, 1945 and 1946 does not bear the same ratio to the profits earned in these years. Only 1/10th of the profits of the year 1944 was paid as bonus in that year; roughly say 1/6th of the profits of 1945 was paid as bonus in that year, but 1/5th of the profits earned in 1946 has *already* been paid as Deepavali bonus for that year, i.e.. the year in question. The profits of 1946 amount to only 1/3rd of the profits of the year 1944. These figures indicate that in the year in question the management have been rather very liberal in the matter of granting bonus.

8. The audited balance sheet for the year ending 31st December 1946 was placed before me. It was pointed out on behalf of the workers that there was a sum of Rs. 4,79,215-6-4 mentioned in the first page as amount to be carried forward to the year 1947 (including provision for the taxation for 1944, 1945 and 1946). The management filed an abstract of the accounts: it is marked as Exhibit A. The advocate for the workers, after verification with reference to the originals, has certified that the particulars therein are correct. From the particulars found in Exhibit A, it will be seen that there is only a sum of Rs. 38,000 which remains to be accounted for by the management. The legal assistant of the mills, who was examined as a witness, stated "that that sum of Rs. 38,000 was not actually in the hands of mills and that it was only a fluid sum rotating in the business and it may be in the shape of goods or replaced machinery." It has, thus, been placed beyond doubt that there is a really *no surplus cash* in the hands of the management. From the balance sheets of 1945 and 1946, it will appear that the mill is indebted to the extent of 20 and odd lakhs of rupees and that no amount has been set apart as reserve fund.

9. I doubted very much whether the mill was in a position to pay even 5 per cent dividend to the shareholders. The advocate for the mills stated, in answer to my query, that just to satisfy the shareholders, and please them 5 per cent dividend has been declared by the directors. He also added that, though the management could not afford to pay Rs. 17,500 as bonus for the workers in 1946, they thought it prudent or expedient to dole out bonus to that extent to the workers to keep them in good humour and maintain their morale if possible.

10. The mills in Madura had been generally paying a month's wages as bonus when 10 per cent was declared as dividend. In this mill, for the year in question, only 5 per cent has been declared as dividend. It will not be reasonable for the workers in the present condition of affairs in this mill to claim more than half a month's wages as bonus; and already a month's wages had been given as Deepavali bonus. In view of the circumstances above pointed out, I hold that for the year 1946 the workers cannot claim any amount as bonus besides the Deepavali bonus already paid to them.

Order—Ms. No. 84, Development, dated 7th January 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the industrial dispute between the workers and the management of the Mahalakshmi Textile Mills, Pasumalai, Madura, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Mahalakshmi Textile Mills, Ltd., Pasumalai, and the workers employed therein and directs that the said award shall come into operation on the 7th Jannary 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

III

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA AT TINNEVELLY.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MAHALAKSHMI TEXTILE MILLS, LTD.

and

THE WORKERS.

Subject—1. ***Whether the management have jurisdiction to take disciplinary action against a worker for a misconduct committed outside the Mills and when a criminal case is pending.—Held*** that the Standing Orders of the Mills defining misconduct had included " any other serious act of misconduct " as one of the items of misconduct and hence Mills have power to take disciplinary action.

Held further, that the pendency of criminal case does not bar taking disciplinary action and it is not open to any person who caused the injury to ask the injured person to confine himself to one remedy.

2. *Whether the matter covered by the above issue is an ' Industrial Dispute '.—Held* that as the result of any disciplinary action taken by the management might have affected the employment of workers in question, it came within the definition of an ' Industrial Dispute ' and the Tribunal can decide the issue.

G.O. Ms. No. 85, Development, dated 7th January 1948.

[Labour—Disputes—Dispute between the workers and the management of the Mahalakshmi Textile Mills, Pasumalai—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 4874, Development, dated 15th October 1947.

(2)

From the Industrial Tribunal, Madura, dated 10th December 1947.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA AT TINNEVELLY.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 4 OF 1947.

The Workers of Mahalakshmi Textile Mills, Ltd., Pasumalai, Madura,

versus

The Management of Mahalakshmi Textile Mills.

AWARD.

UNDER SECTION 16 OF THE INDUSTRIAL DISPUTES ACT, 1947.

1. On the 11th September 1947, the workers of the Mahalakshmi Textile Mills observed a hartal and struck work without giving fourteen days' notice to the management. The management

declared a lock-out on the next day, i.e., 12th September. On the 22nd September, it is stated by the management that there was an assault made by some of the Labour Union members and mill workers on the General Manager and staff and disturbance caused by them in the mill premises. The General Manager of the mills complained to the police about the assault and the disturbance. Not stopping with this, the management began to take disciplinary action against the alleged offenders. Meanwhile, at the instance of the Government, the Collector of the district advised the management to postpone taking the disciplinary action till the disposal of the criminal proceedings. But the management asserted that they had every right to take disciplinary action without reference to the criminal proceedings and without waiting for its final disposal. The Labour Union, on the other hand, insisted that the disciplinary action should be postponed. Thereupon, the Government referred the dispute to this tribunal for adjudication under G.O. Ms. No. 1874, Development, dated 15th October 1947.

2. It is represented before this tribunal that the management had given a statement before the police, that they did not want to proceed with the complaint and that they also, after enquiry, excused and pardoned the offenders. It is maintained by the management that, in such circumstances, there is no outstanding dispute between the workers and the management and that the question whether the management have the right to take disciplinary action against mill workers for alleged unlawful acts committed outside the mill while criminal proceedings were pending against them, is a purely academic question and the tribunal need not decide that point. It is also urged that it would not amount to an 'industrial dispute' as defined in the Act.

3. On the side of the workers, it is contended that the controversy between the parties comes within the definition of "industrial dispute" and that the tribunal is bound to give a decision.

4. The issues are—

(i) whether the management have or have no jurisdiction to hold an enquiry into the alleged misconduct of any workers towards the management outside the mills which forms the subject-matter of a criminal proceeding initiated at the instance of the management and to pass orders independently without waiting for and irrespective of the conclusions which may be arrived at by the criminal courts, and

(ii) whether the question covered by the first issue is an "industrial dispute" as stated by the workers and should be decided by this tribunal or, whether, as matters stand at present, it would only be a question of academical interest which this tribunal cannot be called upon to decide now.

5. *The first issue.*—The advocate for the workers drew my attention to rule 16 of the "standing orders for operatives employed under Mahalakshmi Textile Mills" which defines the powers of the management in dealing with the misconduct on the part of the operatives and contended that, apart from rule 16, the management have no right to take disciplinary action against the workers. It was argued on their behalf that the disciplinary action can be taken only with regard to the acts of misconduct committed within the mills and during working hours and that the management have no jurisdiction to take disciplinary action for any alleged misconduct outside the mills during strikes or lock-out periods unconnected with the productive activities of the workers. It is admitted by the management that the acts complained of were committed outside the mills and during the period of the lock-out. It is admitted by the workers that the persons alleged to have been injured by their acts were all connected with the management of the mills.

6. As per rule 16, the acts or omissions detailed in clause (*a*) to (*o*) therein would be treated as misconduct. Clause (*b*) says that striking work either singly or with other operatives without giving fourteen days' notice is a misconduct. In such a case, the operative does not enter the mill premises at all and is outside it. Nevertheless, it is found in the list of acts or omissions treated as misconduct. There is no warrant for confining the scope of rule 16 only to acts or omissions on the part of the operatives inside the mill premises.

7. The advocate for the workers wants to shut his eyes to an important portion of that rule which is found below the categories or acts or omissions detailed in the clauses (*a*) to (*o*). The portion of the rule which is omitted to be read by him runs thus : "any other serious act of misconduct". It is evident that the acts or omissions mentioned in clauses (*a*) to (*o*) are only illustrative and not exhaustive. The rule vest in the management power to take disciplinary action *also in cases of any serious acts of misconduct which are not specifically mentioned in clauses (a) to (o).* I am, therefore, clearly of the opinion that the management have got power vested in them to take disciplinary action against serious acts of misconduct, even though they could not be brought under the categories of acts or omissions described in clauses (*a*) to (*o*).

8. I shall take for instance a college student assaulting a professor outside the college premises and after the college closes for the day. It is open to the professor to lodge a complaint before the magistrate; and he can also report to the principal of the college about the misconduct of the boy. It is also open to him *not* to go to the magistrate at all and be content with the report to the principal. After a complaint is lodged before the magistrate, the case may end in conviction or acquittal. Whatever may be the result of the criminal case, there can be no doubt whatever that the principal can take disciplinary action against the student.

9. If *B* defames *A*, *A* can prosecute him before the magistrate under the privisions of the Indian Penal Code and also institute in the civil court a suit for damages for defamation. If two remedies are open to an injured person, is it open to the person, who caused the injury, to ask the injured person to confine himself to one of the remedies? I do not see why the analogy cannot hold good in this case.

10. No doubt, the management could have gracefully deferred taking the disciplinary action till the disposal of the criminal complaint as suggested and advised by the Collector. But it is not obligatory on the part of the management to abide by his advice and defer rights. After refusing to listen to the advice tendered by the Collector and after the Government referred the dispute to this tribunal, better counsel seems to have however prevailed. The management say that, after enquiry, they have excused and pardoned the offenders. It seems to me that the management felt nervous both in the matter of proceeding with the prosecution before the magistrate and in the matter of departmentally punishing them. There seems to have been an anxiety on their part to save their own prestige by maintaining their firm attitude as a matter of principle and at the same time they did not in effect want to offend the workers and the authorities and so it is. they say, they made an enquiry and excused the offenders. There may not have been any serious enquiry at all.

11. The management also stated that they were not proceeding with their complaint made to the police and that they had actually presented a statement to the police that they were not proceeding with their complaint. It is not known, what exactly the offences complained of are and whether, in spite of the fact that the management do not want to proceed with the complaint, the police can file a charge-sheet or not.

12. The circumstance that the management do not want to proceed with the complaint and the circumstance that they have pardoned the offenders are not considerations which affect the question at issue. When the management say they have excused the offenders as a result of an enquiry held by them, they assume they have got power to hold the enquiry despite the criminal proceding. Since the workers challenge the right claimed by the management to hold an enquiry and to punish or excuse the workers in question, I am bound to give a finding. I accordingly find that the management have jurisdiction to take disciplinary action for alleged unlawful acts on the part of the workers without waiting for the result of the criminal proceedings initiated by them even though the acts complained of were committed outside the premises of the mills and that they are entitled to pass their own orders. The first issue is found in favour of the management.

13. *The first portion of the second issue.*—The argument advanced on behalf of the management is that the question

whether the management can take disciplinary action against the workers in a matter like this, is not an "industrial dispute" as defined in the Act and that the reference by the Government to this Tribunal for adjudication is itself *ultra vires*. The workers pointed out that the Government would not have directed this Tribunal to adjudicate if the question *was not an "industrial dispute"*. But it cannot be said that merely because the Government chose to call it an "industrial dispute" the view of the Government should be accepted by parties and this Tribunal.

14. "Industrial dispute" as defined in the Act means "any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment of the terms or with the conditions of labour, of any person". In this case, as a result of the disciplinary action taken by the management against the workers in question, they might have been dismissed or suspended. The result of the enquiry could therefore affect the employment of the workers in question. That as a result of the enquiry held by the management the offenders were excused or pardoned is not a matter to be taken into account in deciding the point at issue. In fact, the workers in this case have been only excused and pardoned; that implies they had been found guilty and that the management had only, as an act of clemency or generosity, left them unpunished. If they had been visited with any punishment, the workers would have certainly taken the matter before the Government and a reference would have been made to this Tribunal. And it will not be possible to contend in such a contingency that the tribunal would have no jurisdiction to decide this point. The events which took place subsequent to the order of adjudication passed by the Government can have no bearing. I hold that the question covered by the first issue is an "industrial dispute" within the meaning of the definition found in the Act.

15. *The second portion of the second issue.*—I have already discussed the matter in the foregoing paragraphs. My finding is that the question covered by the first issue is not merely an academical one and that this Tribunal is bound to give a finding on the question. And the finding on the first issue has already been recorded.

Order—Ms. No. 4874, Development, dated **15th** *October* **1948.**

Whereas the award of the Industrial Tribunal, Madura, in respect of the industrial dispute between the workers and the management of the Mahalakshmi Textile Mills, Limited, Pasumalai, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras

hereby declares that the said award shall be binding on the management of the Mahalakshmi Textile Mills, Limited, Pasumalai, and the workers employed therein and directs that the said award shall come into operation on the 7th January 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor of Madras)

K. G. MENON,
Joint Secretary to Government.

IV

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA AT TINNEVELLY.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MINAKSHI SUNDARESWARAL ELECTRIC POWER CORPORATION, LIMITED.

and

SRI K. VENKATARAMA AYYAR, AN EMPLOYEE.

Subject—Wrongful discharge.—Award in terms of the memorandum of compromise.

G.O. Ms. 176, Development, dated 12th January 1948.

[Labour—Disputes—Disputes between Sri K. Venkatarama Ayyar, typist and the management of the Sri Meenakshi Sundareswaral Electric Power Corporation, Limited, Karaikudi—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers:—

(1)

G.O. No. 4994, Development, dated 30th October 1947.

(2)

Letter from the Industrial Tribunal, dated 15th December 1947, No. I.D. 6/47.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA AT TINNEVELLY.

PRESENT:

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

INDUSTRIAL DISPUTE NO. 6 OF 1947.

Sri K. Venkatarama Ayyar, typist, Karaikudi

versus

Sri Meenakshi Sundareswaral Electric Power Corporation, Limited, Karaikudi.

AWARD.

UNDER SECTION 16 OF INDUSTRIAL DISPUTES ACT, 1947.

1. The parties settled their differences and filed a joint statement before me on 17th November 1947, embodying the terms of the settlement. The joint statement was proved to have been duly signed by the parties.

2. By consent of the parties, I adjudicate as follows:—

(i) The employer (Sri Meenakshi Sundareswaral Electric Power Corporation, Limited) shall pay to the workman (Sri K. Venkatarama Ayyar, typist) a sum of Rs. 650 (rupees six hundred and fifty only) in full settlement of the dispute with regard to the dismissal by the employer.

(ii) The employer shall pay to the workman the sum standing to his credit in his Provident Fund account with the prescribed interest up to 17th November 1947 less the amount of temporary withdrawals with interest on the same.

(iii) The employer shall pay to the workman the balance of his pay and dearness allowance up to the date of his dismissal.

(iv) The workman shall have no further claim against the employer either by way of damages for wrongful dismissal or pay in lieu of notice of termination of service or by any other way.

Order—Ms. No. 176, Development, dated 12th January 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the industrial dispute between Sri K. Venkatarama Ayyar, typist and the management of Sri Meenakshi Sundareswaral Electric Power Corporation, Limited, Karaikudi, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2), read with section 10 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of Sri Meenakshi Sundareswaral Electric Power Corporation, Limited, Karaikudi and Sri K. Venkatarama Ayyar, typist, previously employed therein and directs that the said award shall come into operation on 12th January 1948 and remain in force for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

V

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

SRI M. VENKATARAMAYYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE WESTERN INDIA MATCH FACTORY, TIRUVOTTIYUR, MADRAS

and

THE WORKERS.

Mr. Rajeswara Rao, advocate of Messrs. John & Row—*for the Company.*

SRI P. R. K. Sarma, M.L.C., President of the Union—*for the workers.*

Subject.—1. *Reinstatement—Whether certain workers were wrongfully removed from service and whether they should be directed to be reinstated.*—*Held* that as the workers had been convicted by a competent court for the offence of rioting and mischief by fire to the Factory, their dismissal was not improper—Reinstatement refused.

2. *Gratuity—Whether a scheme for gratuity should be introduced in respect of service prior to introduction of Provident Fund.*—*Held* that a worker who has rendered good service and whose services have benefited the Company must be deemed to have earned a right to get some amongst of money irrespective of whether the Company is pleased or not pleased.

Held that the Burma Shell Company had framed rules for the grant of gratuity at a certain rate for the period of service prior to the introduction of Provident Fund.

Held that the Company should pay gratuity at the rate of half a month's salary for each year of service prior to the introduction of Provident Fund.

3. *Wages.*—*Held* that in order to determine adequacy of wages, four factors have to be considered :—

(i) The rate of wages in the kindered factories in the same locality.

(ii) The rate paid by the same Company in other factories of their own in Bombay and Assam making due allowance for local variations.

(iii) The nature of the work.

(iv) The increase in the rates of wages in the past eight or nine years.

Held that on a consideration of the above factors and taking into account the several concessions enjoyed by the workmen, the wages cannot be considered to be too low or inadequate.

4. *Whether the starting salary of fitter should be increased.*—*Held* that their wages are adequate.

5. *Leave.*—*Held* that following the example of Burma Shell, 17 days' privilege leave, 7 days' sick leave and 7 days' festival holidays with pay should be granted by the Company.

6. *Provisions*—*Whether all the workers should be allowed to buy provisions up to Rs.* 20 *instead of Rs.* 14 *as at present.*—*Held* that the cash allowance should be raised from As. 1-4 to 2 annas in the rupee for all workers with effect from 1st January 1948, in lieu of the demand.

7. *Dress.*—*Held* that no case has been made out for asking the Company to supply dress to all the workers.

8. *Recruitment.*—*Held* that if trade unionism has exerted a useful influence on the labour and industry, the Company will be eager to consult the Union to get efficient men. At present the Trade Union cannot be depended upon for the purpose of recruitment.

9. *Provision for house-rent, education and medical aid.*—*Held* that the problem of education of workers' children is a matter for the state to tackle rather than for a Tribunal to force employers to do.

Held that considering the number of accidents in the year, the medical aid available at the factory is inadequate. Recommended expansion of the dispensary. Held that the Company had not provided houses except for a small number and that the workers drawing less than Rs. 75 should be paid a house allowance of Rs. 5 while those paying a house rent of less than Rs. 5 shall be paid their actual amount of rent.

10. *Bonus.*—*Whether six months' pay should be paid as bonus.*—*Held* that the payment of 20 per cent of the earnings of the worker as bonus is fair and reasonable.

11. *Piece-rates*—*Whether should be abolished.*—*Held* that the present piece-rate system has been in existence from 1929 and should continue.

12. *Travel facilities*—*Whether railway fare should be paid when workers go out on leave.*—*Held* that two companies Burma Shell and Imperial Chemical Industries give such facilities and it cannot be made compulsory on other Companies.

13. *Provident Fund.*—*Held* that the Provident Fund contribution should be calculated only on the basic salary as dearness allowance is paid to cover the increased cost of living and not to make increased savings.

14. *Mid-day meals.—Held* that the workers are paid adequate salary and that it is too much to ask management to give mid-day meals to workers.

15. *Whether factory premises required remodelling.—Held* that on inspection of the factory premises with the Deputy Chief Inspector of Factories, the factory premises are in good condition and there is no room for complaint.

G.O. Ms. No. 319, Development, dated 22nd January 1948.

[Labour—Disputes—Dispute between the workers and the management of the Western India Match Factory, Tiruvottiyur—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 4908, Development, dated 16th October 1947.

(2)

From the Industrial Tribunal, Madras, dated 3rd January 1948, *No. I.D.* 20/47.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

SRI M. VENKATARAMAIYA, B.A., B.L.

[In the matter of the Industrial Disputes Act and in the matter of the Industrial Dispute between the workers and the management of the Western India Match Factory, Tiruvottiyur, Madras.]

AWARD.

The above dispute was referred to me for adjudication in G.O. Ms. No. 1842, Development, dated 26th April 1947. As I was on leave for three months and the dispute remained undisposed of it was again referred to me for adjudication in G.O. Ms. No. 4908, Development, dated 16th October 1947.

The Western India Match Factory was represented by Mr. Rajeswara Rao of Messrs. John and Row and the workers were represented by Mr. P. R. K. Sarma, M.L.C., the President of the Union.

Issue 1.—*Whether Murugesan, Rangaswami, Shukoor and Kulla Govindan were wrongfully removed from service and whether their reinstatement should be directed.*

Murugesan, Rangaswami, Shukoor and Kulla Govindan were employees in the Wimco, and were removed from service on 29th July 1939 and the Union now applies for their reinstatement. In one and the same breath the Union represents that these four workers were not dismissed and yet they want their

reinstatement. The fact is that their services were terminated on 29th July 1939 as Exhibits VIII series show. The reason for this was that they were all convicted by the Sessions Judge, Chingleput in S.C. No. 11 of 1939 and sentenced to various terms of imprisonment, the offences being rioting and mischief by fire and in some cases hurt also. The important section is section 426, Indian Penal Code. There was a conspiracy to set fire to the factory and there was rioting and some property was actually destroyed. When the management found that their own workmen inclusive of the four persons mentioned above were engaged in the act of committing mischief by fire to their property and a court found them guilty of the offence, it cannot be said that the dismissal was improper. Mr. Sarma said that one of these men, Shukoor, was convicted by the High Court only under section 147 and not under section 426, Indian Penal Code. Be that as it may, an employee of a factory engaging himself in rioting and unlawful assembly and having been convicted in one court and that a Sessions Court, and the sentence having been confirmed by the High Court, even if it be under section 147, Indian Penal Code only, has no right to be reinstated. I do not think many more reasons are required for the dismissal of an employee than this. The issue is found against the workers and reinstatement cannot be directed.

Issue 2.—Whether a scheme for gratuity should be introduced in respect of service prior to the introduction of the Provident Fund Scheme in 1945.

This company has been functioning in Madras since 1929. In 1945 they introduced a Scheme of Provident Fund under which the contribution by the employee and the employer is 8-1/3 per cent but that, as I said, is from 1945. The Union demands that for the period from 1929 to 1945 there should be a gratuity given at the rate of one month's salary for every year of service. The company says that no such gratuity can be a right exerciseable. It has often been held that though gratuity and bonus do not partake of the nature of any contract, it can be the subject-matter of adjudication. This demand is characterized by the company in paragraph 10 of their written statement as "preposterous". In passing, I may say I have not found the pleadings of parties couched in such unnecessary strong language as in this dispute. For example, I refer to this: "After reference to this Industrial Tribunal of the industrial disputes for adjudication, disobedience to order, insubordination, frivolous complaints, stay-in strikes have become the order of the day and became more frequent than previously." I hope Government will take due notice of this kind of language coming from a management claiming to be a paragon of virtue in regard to the conditions of service and other matters.

In the Burmah-Shell Company, when provident fund scheme was introduced they did grant gratuity half a month's salary up to

a particular period of service and thereafter at one month. There is no unreasonableness in a man who has put in 20 years of service to demand a gratuity when he is obliged to quit service. This very same company, Wimco grants as a matter of fact gratuity. It is mentioned that they have been giving gratuity which depends upon " whether a certain worker has pleased his employer and if so to what extent." This is the very point which the labour is contending against. A workman who has rendered good service, and efficient service for a long period of time and whose services have benefited the company in the matter of profits is entitled to, or at any rate, must be deemed to have earned a right to get some amount of money irrespective of whether the employer is pleased or not pleased. The days are gone when the employer can dictate to his employee saying " if you will kneel and be suppliant, you will get a gratuity and a large sum at that. But if you stand firm and do not show proper respect you shall not get anything." The whole tenor of the statement filed by the company in this dispute unfortunately shows an extremely hostile attitude towards labour. I hope the company will now at least realize that it owes a duty to the labour which has stood by the company during all the terrible years of war and even before. It is they, the workmen, who have helped this Swedish Company, to establish itself in Madras and therefore apart from all legal rights moral liability falls on the employer to treat the labour with something other than contempt. They should realize that labour is as much a part of the industry as the owners of factories.

This is the only case in which I felt necessary to return to the parties, their written statements and they filed fresh statements. Yet the language has not been modified to any extent. Inasmuch as there is at least one employer of labour who indulges in language unbecoming of respectability, the Government will do well to amend the rules framed under the Industrial Disputes Act so as to bring management as well as Labour Unions to a sense of responsibility to observe ordinary canons of good behaviour and not to use intemperate language. I do not know why the parties should not be dealt with for contempt of court even. Does the Wimco wish me to believe that Government's action in referring disputes to adjudication has led to indiscipline and other ills in the industry.

Is it not terrible to see that a workman in the factory should go to the length of setting fire to the factory? They should consider to what a degree of exasperation they should have been roused to perpetrate such a nefarious act. It is not mere fun that makes people do such nefarious deeds. It is want of sympathy; it is want of consideration for the lot of the worker and it is the growing feeling and suffering on the part of the worker that drives him to such acts. Why should the payment of gratuity depend upon the pleasure of the employer as the management say at

page 10 of their statement. They say "Whenever a worker has died the company has made ex gratia payment to cover reasonable funeral expenses although not bound to do so." Later on, "it is the privilege of the management to grant or refuse payment of gratuity. . ." What is worse, in spite of the statutory requirement that there should be standing orders which clearly define the conditions of service this company has not yet done so. There are no standing orders even now and to leave things to the "pleasure" of the company seems to me to be rather dangerous at least so far as the Wimco is concerned.

It is only the Burma-Shell Company's rules which are directly comparable to companies of this kind. There also the provident fund was introduced some 16 or 17 years ago and service before that period was not left out of account. Whereas a man who has contributed towards the provident fund gets the provident fund from the date of its institution, he would get for the previous service, i.e., for service prior to the institution of the provident fund a gratuity calculated at a certain rate. I think that principle is very sound and I hold that the Wimco should give to the employees gratuity at half a month's salary for each year of service up to the date of the introduction of the provident fund in 1945. This calculated gratuity will become payable along with the provident fund.

Issue 3.—*Whether the salaries, piece rates and wages now in force are inadequate and require to be increased. If so, in what manner?*

(*a*) *Whether the starting salary of Re.* 1-1-0 *for a fitter employed after test is too low.*

(*b*) *Whether the yard workers' wages deserve to be raised. If so, to what extent?*

Naturally the question of wages and salaries must demand greater attention and much discussion has also taken place on the subject. In order to determine whether piece rate or wage or salary is adequate or not three main factors have to be considered. One is whether in kindred industries in the same locality the rate is the same or approximately the same, secondly what does the same company pay to its employees in Bombay and Dhubri (Assam) and what variations have to be made in order to suit the different localities and thirdly what is the nature of the work for which the wage is to be determined.

A fourth and a very important consideration will be whether there has been increases in the rates of wages and salaries during the past eight or nine years. At my suggestion the company has obtained a list of rates obtaining in the Ambarnath Factory (Bombay) marked Exhibit XII and it has been signed by the Technical Manager, Bombay, and I assume that it is a correct statement. This has to be compared with columns 9 and 10 of Exhibit XIII, which is a statement furnished by the company to show

the actual earnings of the different categories of workers in Madras at present, i.e., in 1947. The last column of the statement shows the increase which the workers obtained in their wages between the period 1939 and 1947. It is found that every one of the workers got an increase. A man who was getting Rs. 2-0-9 in 1939 gets Rs. 2-6-0 per day now and in respect of the daily-rated workers the increase has been distinctly noticeable as Exhibit XIV will show. In 1943 a general increase of half an anna in the rupee was given to all the piece-rated workers. The result of the comparison of the increases to the different categories show that some persons got as much as 70 per cent increase in the wage rates while some got 16 per cent only and in the case of the daily rates it varied between 2 annas and Re. 0-14-9. The question is whether these increases are adequate.

In considering this question it is necessary to remember foremost that in this company there is no question of dearness allowance. We are now dealing with rates and salaries only without reference to the increased cost of living for which dearness allowance is paid, because the company supplies to all the employees provisions and stores required for household use at the same rates at which those commodities could be had in the market in 1939. The company naturally has to spend a lot of money in obtaining the stores at current market rates. They have however fixed the quota for each individual up to which only he will be permitted to buy in the stores at the concessional rates. This quota ranges from Rs. 13 to Rs. 20, vide Edition IV. Exhibit XIII will show that the actual earnings of all grades and classes of employees have increased from 1939 to a very substantial extent so much so that the lowest income of a piece-rated worker is Rs. 24-2-0 and he is the 'dozen packeting receiver'. Besides this man there are only five other persons who get less than Rs. 30 a month, and with regard to daily-rated workers except those corresponding to the coolie classes, viz., the very unskilled, all are paid more than Rs. 30. In addition to the wages and salaries earned by the employees the company pays a cash allowance of Re. 0-1-4 per rupee. Consequently, the wages and salaries paid in this company compare very favourably with what obtains in other concerns. At this stage we may consider what are the types of workers and the nature of skill demanded of them in this factory.

The Western India Match Factory is located near Tiruvottiyur and has been in existence since 1929. A visit to it when it is working ought to convince any one that rationalization in this factory has gone apace rapidly with the result that there is comparatively little of what we may call skilled or technical knowledge required.

Huge blocks or stumps of felled trees are brought to the gates of the factory and they are, by means of crowbars and other means, rolled into the place where sawing is done. This place is called the 'yard'. By means of power driven saws these blocks are cut and

the cutting was so nice to see, as if it was a piece of lump of butter being cut by a knife. The men or man at that stage has to roll this blocks into position and the saw does the rest of the work. The sundried blocks or pieces are sent to another section where by means, again, of machinery from these cut pieces layers are taken veneers. These are again slightly cut and by impressions made on them the veneers are shaped into pieces corresponding to the match boxes. The inside as well as outside are made by machines themselves. These outer and inner boxes are all thus completed by the working of the machines and the man at the spot has only to remove them when the work is finished or the veneers have to be put in position to be cut and folded. Another section is similar to the above where different layers of cut wood are piled one over another and pushed into proper position and the machine cuts them into splinters. A sieve separates useless ones from the good ones and the machine, which is again worked by power, is so constituted that it just allows the tips of splinters to touch a chemical composition which is kept in a large basin at the bottom of the machine. The splinters with the chemical composition tipped at their ends pass on again by the machine and are dried and they are produced at the other end in order to be put into boxes. The box filling department arranges these match sticks and the number to be put into each box is again regulated by a machine. It is like the tickets which are put into the shelves at the ticket collector's office in railway stations. The exact number drops into the box where they are arranged and filled boxes are sent to the banderol department where the banderols are fixed and labels are attached also by machinery. The making of the chemical composition is the one thing where manual labour is prominent. Also that department where the chemical composition has to be made for the powdering of the sides of boxes. Thus it will be seen that from the beginning it is the machine that does the work and what the man does is either to feed the machines at one stage or remove the finished product at the other end. I am definitely of opinion that there is very little skill expected of the workmen in this factory except at a few places. I consider the box filling department to be rather of an arduous kind, and the box filling man gets on the average Rs. 41 and there are 44 such men. In the face of what has been observed above it cannot be said that the wages here are too low for any category of workers. Prominent attention was drawn to the case of a coolie, a sweeper, whose salary is Rs. 24-6-0 (Chegappa Reddi) and it was stated that he invariably got much less than this. It must not be forgotten that the salaries paid or wages earned would depend on the length of attendence in the month and as long as the rates are found to be satisfactory and adequate, the fact that a particular person got low income is not due to the inadequacy of salary, but to his too frequent absenteeism.

Another factor which should be borne in mind is whether the increase that the several categories of workmen got was to a very

low paid basic salary. If for instance in 1939 the salaries and rates were very low the increase of 5 or 6 annas or 20 per cent may not be an adequate increase but in column 16 of Exhibit XIII are given the piece rates for each category of worker which obtained in 1939. To further clarity this the company has produced the rates for 1939 (Exhibit I). Even in 1939 except two or three categories of workers every one got more than one rupee per day. It will also be observed that the heavy worked man, though unskilled such as the cross-cutting machineman, gets a very decent salary of more than Rs. 60 and the helper Rs. 57. The corresponding men in Bombay are paid Rs. 1–7–0 and Rs. 1–4–0 a day—much lower than what the Madras men are paid. These variations between one place and another or between one category and another category are not due to any haphazard fixation of wages. Whenever the work involves hard, manual labour, though it is unskilled, a little more is being given and in some places the same kind of work will demand a higher rate due to local conditions. Therefore when a comparison of the rates obtaining in different categories or in different places is made it should also be remembered that all types of categories in a factory such as this are or may be said to be unskilled or at the most semi-skilled. Therefore it is futile to contend that a man who is paid Rs. 1–8–0 in a certain place must be paid Rs. 1–8–0 in another place simply because he does the same work. If the variation however is appreciable, then explanation has to be demanded. In the present case a comparison of Exhibit XIII with Exhibit XII shows the Madras Workers are in an advantageous position except in Rimp Veneer Feeding section and Rims Veneer chopping. The latter's rate is about Re. 1–1–0 whereas it is Rs. 2–4–0 in Bombay. But the dimensions of the layer differ. On a very careful comparison of the rates in the different departments I am unable to say that there is any inadequacy of the rates prevailing in Madras. I would recommend that the rates with regard to the Rims Veneer Feeding machines and Rims Veneer chopping may be revised slightly to bring them up to the Bombay standard.

Another category about which I would leave a suggestion is the banderol, cutting, powder and filling where the rate now obtaining in Madras is 1¼ pies, or 1·29 pies and 1·38 pies; it may be raised to 1½ pies, the rate which is in vogue in Bombay. These are to be taken as suggestions but not as obligatory. Mr. Engstrom, the Chief Engineer ,who knows these matters will set right these slight anomalies. I would also suggest to him if he could increase the number of men in the box filling machines. Though it may also be machanical kind of work a certain amount of risk of burn exists in this box filling department but the risk cannot be avoided by giving more money. It is perhaps possible to reduce the risk by employing more men. I would leave it to Mr. Engstrom to pay attention to these matters.

The result of the foregoing considerations is that the minimum which an unskilled man in this company gets is Rs. 24-12-0 and he also gets an attendance bonus and a cash allowance at Re. 0-1-4 per rupee. There are also other concessions such as fuel and stores to which I have already referred. These wages cannot, under any circumstances, be said to be too low or inadequate.

In their statement the company has devoted one column to show the possible earning of each workman if he was doing his best. This was refuted by the other side and the company has produced Exhibits V to VII. They show the actual earnings of three men in the Peeling department in the month of July 1947. The production is approximately near to what the company shows as a possibility and the earnings have been Rs. 48, Rs. 49 and Rs. 52. Given full attention to the work a workman can earn much more than the minimum which is fixed for 26 days. Quick work at the machine and producing more will get him more money. This, it is the business of the Union to impress upon all the workmen. It is not that the rate is too low but that the work is not quick and efficient that makes the man get what he calls a lower income.

In the course of discussion it was found that a few matters required clarification. An impression was created that a number of people have been kept temporary for a long period of time with the consequence that they got no benefits, either of dearness allowance or stores concessions or provident fund. The management has filed certain statements showing the number of men whom they confirmed in 1945, 1946 and 1947, and above all they have sent me the notices which they have put up giving effect to certain changes from 9th December 1947. Those who have put in a continuous service of one year will be confirmed and they will no longer be treated as casual labour without any privileges. The persons who were treated as casual labour and were getting Rs. 1-11-3 will hereafter get Rs. 2-3-0 including dearness allowance. Rs. 2 per day for an unskilled labourer is exceedingly reasonable. I was very much gratified to find this immediate response on the part of the management to a few observations of mine in the course of the arguments.

Issue 3 (*a*) *and* (*b*).—It is not quite correct to say that the starting salary of a fitter is Rs. 1-1-0. At page 2 of Exhibit XIV the names and incomes of all the fitters are noted. They are all getting more than Rs. 40 a month except six people who were appointed quite recently. No one can demand that from the date of appointment as a fitter he should be paid Rs. 1-4-0 or more. When he is a learner, during that period he cannot be expected to be paid the wage of a permanent fitter. Also the kind of work in which he is employed as a fitter requires consideration. One apprentice fitter is getting Rs. 1-7-0 but another apprentice fitter is

getting only As. 12. Both are new entrants. With regard to permanent fitters who have put in more than two years of service, I do not find that any one gets less than Rs. 1-4-0.

With regard to yard workers I have already said that they are working in the open, pushing or removing the blocks of wood. None of them gets less than Re. 0-14-0 a day and they also get Re. 0-1-4 in the rupee extra. What they are now getting seems quite adequate.

Issue No. 4.—What shall be the reasonable period of leave which should be granted (i) as ordinary privilege leave (it is now 15 days), (ii) as sick leave with pay and (iii) on account of festivals, (it is now 13 days without pay)?

N.B.—There can be no accumulation of sick leave.

The granting of leave by this company is of one kind only. Leave for 15 days in the year is given, and I am asked to interpret this as 10 days privilege leave and of 5 days for holidays. For this reliance is placed on their letter to the Commissioner of Labour, dated 23rd July 1945 (Exhibit X). Mr. Sarma for the Union states that he never agreed to have 5 days' leave for festivals. Whatever that be, it is now obligatory on the part of every employer of this type to give 10 days continuous leave and as it is obvious that those ten days should be given for the purpose of recuperation of health there should be a few more days available to the worker. Recently the Madras Legislature considered 12 days privilege leave, 12 days festival holidays with pay and 12 days sick leave would be reasonable for one class of employees. In the installation of the oil companies the workers get 17 days privilege leave and a fairly long period of sick leave with pay and half pay and seven days festival holidays with pay. I direct that the workers in the WIMCO shall be given 17 days privilege leave with pay, 7 days sick leave with pay and with regard to festival holidays the company states that at page 13 of their written statement that they close the factory for 13 days in a year on account of festivals, but without pay, and they elaborate the statement by saying that when the factory is closed for festivals Sunday is substituted and double wages are given and so on. It is time, we bring about some uniformity in these matters. With regard to festivals the direction should be that seven festival holidays with pay shall be given, and what those seven festivals are shall be determined by the workers and the management after due consultation.

Issue No. 5.—Whether the value of the provisions supplied by the stores should be raised from Rs. 14 to Rs. 20 for all workers.

Out of 1,220 workers, 872 are permitted to buy stores at concession rates up to a maximum of Rs. 14. The others are allowed to purchase up to Rs. 15 and Rs. 16. The commodities supplied to them are mentioned in Exhibit XVI and the quantities which

each person can buy are limited. Much time was spent in establishing that the value of the stores would be four or five times these amounts if purchased in the open market today. That however, in my opinion is beside the point. The workers are getting the provisions required at a favourable rate and what they demand is that this limit should be increased to Rs. 20 for all workers. Some employees are permitted to buy even up to Rs. 30 but 1,220 men cannot exceed Rs. 20 limit. The management states that even as matters are, the workers buy the provisions at concessional rates and sell them at the market rates and thereby are also making money. I am unable to take this as a proved fact because if the worker who gets Rs. 14 worth of provisions should sell a part of them to make a profit he will have to go without that item which he has sold or should buy it at a higher price in the market. The ways of the blackmarket are very mysterious and even if there is truth in what the management has said it is no guidance for me in deciding any matter in issue. The workers who have appeared before me say that what they are able to buy in the stores is not enough and therefore they have to go to the market for the extra things required. This is to make out a case for increase in the quota for all workers up to Rs. 20. If that statement is true it cannot be that they are selling what they buy from the stores for a higher price keeping themselves in needy circumstances. Mr. S Venkoba Rao, the accountant in the factory, explained how even when a particular article is not available in the stores, it is got from market and where there is a limited stock such as coffee in the last month, the quantity made available to each worker is proportionately reduced. The company has gone into each worker's case separately and fixed a quota for him. Generally, the quota is half the salary. Mr. G. D. Paul, wages clerk for the last 12 years, said his salary was Rs. 50 in 1939 and he gets now Rs. 90 and his stores allowance is Rs. 26, and he says that to-day he is unable to save any money at all, not even Rs. 10, though he gets Rs. 90 whereas in 1939 he was able to save Rs. 10 a month when he was getting only Rs. 50. The number of members in his family has increased. So it may be taken to be the case with respect to all workers. So far as provisions for domestic consumption, tabulated in Exhibit XVI, are concerned, I find that the manner in which the management has fixed the quota for each worker is satisfactory and requires no change.

If you take the case of a worker who is getting Rs. 26, he spends Rs. 13 for provisions which we may take it for granted will be enough for the family consumption; there is still Rs. 13 plus Re. 0–1–4 per rupee on the Rs. 26. The question is whether what is left in cash is an adequate sum of money to meet his other demands. It is well known that the chief item of expenditure is cloth. Transport has increased by 50 per cent and house-rent has increased enormously. The index with respect to cloth is now in the neighbourhood of 285. Cloth may be scarce and yet cloth is

required by everybody. If the 5 yards or any quantity that may be the rationed quantity is insufficient one will be obliged to go into the blackmarket even, to clothe oneself and his family. Assuming that a family consists of on the average four members the minimum that one would require for clothing these four would be nothing less than Rs. 84 which would work out at Rs. 7 per month, and if this is taken away from the Rs. 13 there is hardly left anything for other things not included in Exhibit XVI. A man who was getting Rs. 26 in 1939 must have been spending the whole of it for his maintenance and if to-day Rs. 13 gets the things which he was then getting for food, the remaining Rs. 13 will also go away for his necessary purposes as he was doing in 1939, but he requires more because the Rs. 13 which is left to him after buying the stores can hardly be sufficient to get the things which he has to get other than those mentioned in Exhibit XVI. Medicine, barber, wash and occasional theatre, transport besides cloth which I have already mentioned. And they have all gone up in price and therefore the Rs. 13 left as cash balance would hardly be enough for him and the cash allowance of Re. 0–1–4 in the rupee is not an adequate compensation to neutralise or even compensate for the rise in prices of things other than those mentioned in Exhibit XVI. I therefore recommed that the Re. 0–1–4 should be raised to 2 annas in the rupee with effect from 1st January 1948.

On behalf of the management a repeated request was made to permit them to drop the stores concession and that they would give a cash dearness allowance which is being paid in Bombay at Rs. 42 a month. The workers did not agree to this suggestion and I cannot say that they should be compelled to take cash in substitution of the existing arrangement of concessional stores. It is a matter which the company has to propose to the union and the Labour Officer and after discussion if they agree they may substitute it by dearness allowance in money. I am not however competent to deal with this question in the enquiry. All I can say is circumstances justify an increase in the rate of cash dearness allowance from Re. 0–1–4 to 2 annas. In the case of those who have been entertained after war the stores concession is not available to them and there is quite a number of men who have been recruited recently and who have to depend upon the dearness allowance only. Whatever advantages may accrue by the stores concessions are not available to the new tenants. Therefore also the increase of dearness allowance from Re. 0–1–4 to 2 annas is justifiable.

Issue No. 6.—Whether dress should be supplied to all the workers (now only workers in certain sections are given).

A certain number of workers are supplied by the company with dress in conformity with the Madras Factory Rules. Dress is demanded by the remaining workers. I can see very little ground for that. Having inspected the factory I saw the men at the machines. Except in a very few places, there is not much chance

of their dhoties getting soiled on account of their being near the machines. No case has been made out for asking the company to supply dress to all the workers.

Issue No. 7.—Whether the union should be consulted when a person is recruited for service in the factory and whether a committee as suggested by the union should be constituted for the purpose of recruitment.

I am asked to direct the company to consult the union before a man is recruited for service in the factory. The general policy of labour exchange is a matter for the Government to decide and in the present state of trade unionism in the country the factory owner may not be able to get the right type of man through existing trade unions. I am not referring to this particular company or to a particular trade union. If trade unionism gets sufficient strength and has exerted a useful influence generally on labour and industry not only will the company be prepared to consult the union but will only be too glad to consult the union in order to get efficient and capable recruits. At present however the trade union cannot be depended upon for the purpose of recruitment. This issue is found in the negative.

Issue No. 8.—Whether the cash dearness allowance now being granted at Re. 0–1–4 per rupee should be raised to 2 annas—vide finding on issue No. 5.

Issue No. 9.—Whether any provision should be made for—

(1) *allowance for house-rent,*

(2) *educational facilities, and*

(3) *medical aid*

beyond what is now obtaining in the factory.

Education.—This factory has an elementary school where 80 pupils are being taught. The problem of education of the children of the working classes is an important problem which it is the duty of the state to tackle than for a tribunal to compel the employer to do. I do not think I can make any recommendation on this subject. It is of course desirable that Government should make it obligatory on every management which employs more than 1,000 workmen to have a school of a High School standard to cater to the educational needs of the families of the workers, but that desideratum seems a long way off.

Medical aid.—With regard to medical aid there is a dispensary attached to the factory which I cannot say is of a very high order. There is a medical officer and such medicines as are constantly needed are available. The dispensary itself is in a comparatively small room and the medical officer there told me that even the families of the workmen who go there for treatment are attended

to. The dispensary requires to be enlarged and there should be more facilities for those who go there for medical treatment. In this connexion, Mr. Sarma, addressed arguments that the medical aid given to the persons who are injured is of a very flimsy character, that there is not even an ambulance and that there are frequent accidents and so on. The reply was that whenever there is any accident requiring treatment in a hospital, the injured man is taken to the Royapuram hospital which is four miles away in a car that is always available. They have filed a list of accident cases sent to the hospital from 1st January 1947 to 30th November 1947 (Exhibit XVII). The number of accident cases is 38 and number of cases of burns is not small. There is no doubt that the management is taking as much care with regard to the treatment of the injured workmen as is possible, but the number of cases being as much as 38 in eleven months and the nature of the business being concerned with things like phosphorous and sulphur, I am of opinion that the immediate medical aid available at the factory is inadequate. There is a labour office attached to the factory and as I said in the course of the arguments the labour office does not seem to be of any help to the workers. I should expect the labour welfare office to take more interest to see that better medical aid is provided. I recommend that immediate steps should be taken to expand the dispensary or build a new one where there are some beds provided for the treatment of persons injured, before they are removed to the hospital. As long as the officers of the company lend their cars to transport the injured men to hospital the absence of an ambulance is not of much consequence.

Housing.—One of the biggest problems of the day is house accommodation. There are a few houses constructed by the management but the number is so small and the houses are so very antiquated in their pattern that almost all the 1,220 workmen are going about finding a suitable accommodation for themselves. And there is no village close to the factory. Tiruvottiyur is not so near probably 2 miles away from the factory—and even Tiruvottiyur is said to be densely populated. The few houses attached to the factory are being let out at Rs. 3 a month. There is no denying the fact that the present notion is that it is the duty of the employer to provide housing accommodation to the employees. The time which an employee takes to go to the factory and to return home after working for a period of 8 hours or 8½ hours, is unconscionably long for the betterment of the family life of the worker. The employers in most cases have found the reasonableness to provide housing accommodation. By providing a few houses as they have done the Western India Match Company have acknowledged impliedly the desirability of providing houses to the workers. They have not done so except for a very small number. The result is that those who are not provided with houses are obliged to pay too much of a house-rent. In many cases where there is no housing accommodation a house-rent allowance is being given. I have,

therefore, decided to direct that the management shall pay a house-rent allowance of Rs. 5 to those whose basic salary is less than Rs. 75. Those who pay Rs. 3 or Rs. 4 or less shall be paid the actual amount of rent.

Issue No. 10.—Whether the bonus of 1/5th of the total earnings for 1946 which has been paid is inadequate and should be raised to six months' pay.

For 1946, a dividend at 12 per cent was declared and the bonus has been paid which works out to nearly 2½ months' wages. In 1945 when also 12 per cent was the dividend declared, 2 months earnings were given as bonus in addition to the victory bonus. On the principle that bonus should be linked to the dividend, 20 per cent of the earnings of the workers paid as bonus should be deemed to be quite fair. Exhibits XI and XI (*a*) afford a comparative study of the production in the year 1944, 1945 and 1946 as well as the profits realized by the Madras branch of the company. No separate balance sheet is prepared for the Madras branch. The company has given the approximate figure under profits realized by the Madras branch A comparison of the figures also shows that 20 per cent bonus declared for 1946 is fair and reasonable.

Issue No. 11.—Whether the piece-rate system should be abolished.

This is not the time when piece-rate system should be abolished. Apart from the principle that piece-rate is a good estimate and will indicate the efficiency of the worker the present piece-rate system has been in existence from 1929 and is yet in vogue in the company's other branches at Ambarnath and Dhubri (Assam). The existing system will continue.

Issue No. 12.—Whether the management should pay to the workers railway fare for 600 miles and give other facilities for utilization of leave.

Two companies, the Burmah Shell and the Imperial Chemical Industries give railway fare to some of their workers on certain conditions, when they proceed on leave. What these two companies give is a special concession which cannot be made compulsory on other companies. The issue is found in the negative.

Issue No. 13.—Whether the contribution for provident fund should be on the total earnings or on the basic salary.

Provident fund contribution is calculated on the basic salary earned in the month. In this dearness allowance is not included. If dearness allowance is to be included in the contribution to provident fund, the demand for dearness allowance need not be given. The object with which dearness allowance is given is to compensate the worker for increased cost of living and not to make increased savings. It is obvious that there is no reason at all in this demand.

Issue No. 14.—Whether the management should supply midday meals to the workers.

The workers are paid an adequate salary and there are tiffin sheds constructed where they take their midday meals and the sheds are roomy and large in size. A midday meal is no small expenditure to a company to undertake. If the workers are united they can have a co-operative restaurant or hotel for which the company may be asked to give some accommodation but it is too much to ask the management to give midday meal to workers. I am not aware of any company which does this.

Issue No. 15.—Whether the factory premises are not in good condition and remodelling of the same should be made immediately.

Along with Mr. C. G. Reddi, Deputy Chief Inspector of Factories I visited the factory and I have not found any reason to think that the premises are not in good condition. There are different sections and in each section there is plenty of space. There is no room for complaint that a remodelling is required.

P.S.—After I completed the above award the Western India Match Company has sent me a list of wages and salaries revised by them, to take effect from 27th December 1947. This, they state in their letter, was necessitated owing to the cuttin, down of petrol rations and consequent shortage of wood. Instead of full size boxes, medium size is to be produced but the rate as for full size is being maintained for medium size, production being as per standard fixed in column (6) of the statement. The change, therefore, it is claimed, does not offend the provisions of Section 33 of the Industrial Disputes Act as the workers' earnings are not adversely affected.

Order—Ms. No. 319, Development, dated 22nd January 1948.

Whereas the award of the Industrial Tribunal, Madras, in respect of the industrial dispute between the workers and the management of the Western India Match Factory, Tiruvottiyur, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2), read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Western India Match Factory, Tiruvottiyur and the workers employed therein and directs that the said award shall come into operation on the 22nd January 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

VI

BEFORE THE INDUSTRIAL TRIBUNAL, BEZWADA.

SRI P. MARKANDEYULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

SRI RAMACHANDRA SPINNING AND WEAVING MILLS, PANDALAPAKA

and

THE WORKERS.

Mr. C. R. DIKSHITULU, advocate—*for the Mills.*

Mr. C. V. K. RAO—*for the workers.*

Subject.—1. *Whether the closing of the Mills from 1st July 1947 legal and justified*—(*a*) *Jurisdiction of the Tribunal.—Held* that as the dispute related to the employment or non-employment of 400 workers, there was an industrial dispute within the definition of the Industrial Disputes Act.

(*b*) *Legality of the lockout.—Held* that the lockout has been declared during the currency of the Award of Mr. Venkataramayya.

Held that the question of the capacity of the Mills to pay increased wages was heard and decided by Mr. Venkataramayya in his Award and the lockout was in breach of a matter covered by the Award. Hence the lockout is clearly illegal.

(*c*) *Justification for closure of the Mills.—Held* that the accounts of the Mills have not been properly kept;

that the partners have drawn interest on their capital contrary to the provisions of the Partnership Act and that if the item is excluded there would be no loss.

Held that the treating of the cost of machinery as an item of routine expenditure is an irregularity and it cannot be taken into account in calculation of profit and loss. Held that the payment of the wages as per the Award as and when they fell due would have resulted in no loss. Held that the closure of the Mills was more a protest against the Awards rather than a financial necessity.

The lockout therefore is clearly illegal and unjustified.

2. *Wages for the period of lockout.—Held* on the above findings that the workers should be paid their wages and dearness allowance from 1st July 1947 till 31st March 1948 for the period of the operation of the Award of Mr. Venkataramayya.

G.O. Ms. No. 338, Development, dated 23rd January 1948.

[Labour—Disputes—Dispute between the workers and the management of Sri Ramachandra Spinning and Weaving Mills about the closure of the mills—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers:—

(1)

G.O. Ms. No. 2991, Development, dated 10th July 1947.

G.O. Ms. No. 3031, Development, dated 11th July 1947.

(2)

From the Industrial Tribunal Sri P. Markandeyulu, dated 5th January 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, BEZWADA.

PRESENT:

SRI P. MARKANDEYULU, MA., B.L.,
Industrial Tribunal.

In the matter of an industrial dispute between the management and the workers of Sri Ramachandra Spinning and Weaving Mills, Pandalapaka.

AWARD.

By G.O. Ms. No. 2991, Development, dated 10th July 1947, an industrial dispute between the management and workers of Sri Ramachandra Spinning and Weaving Mills, Pandalapaka, regarding the closure of the mills has been referred for adjudication to this tribunal. On the very next day the Government passed another G.O. Ms. No. 3031, Development, prohibiting, under section 10 (3) of the Industrial Disputes Act, 1947, the continuance of the lockout in the mills which had been in existence since 1st July 1947.

2. The events that lead up to the reference for adjudication may briefly be stated. The Sri Ramachandra Spinning and Weaving Mills were started in or about 1928 at Pandalapaka by three partners, Karri Bhami Reddi, Dwarampudi Subbi Reddi and Undavalli Chellamma and it is stated that each of them contributed a capital of Rs. 40,000. In the beginning of 1945 the workers in the mills formed themselves into a Union, called the Pandalapaka Factory Labour Union and began to make demands for an increase in the basic wages and for the payment of a dearness allowance on account of the rise in the cost of living. On 27th September 1946 the Government of Madras passed G.O. No. 3671, Development, under Rule 81 (a) of the Defence of India Rules, referring the question of the payment of a dearness allowance to the workers in Ramachandra Spinning and Weaving Mills and Suryanarayana Spinning and Weaving Mills at Pandalapaka to the adjudication of Khan Bahadur P. Sherfuddin

Sahib Bahadur who, was then the District Judge of East Godavari. Before this, the Government have appointed in July 1946 Sri Rao Bahadur M. Venkataramayya as a Court of Inquiry under the Trade Disputes Act, 1929, for reporting on the conditions of labour in the textile industry in the Province and on 6th November 1946 they appointed him as an adjudicator for considering the question whether any interim relief should be given immediately to the workers in the textile mills. Mr. Venkataramayya submitted his interim award on 9th December 1946 by which he recommended among other things an increase of Rs. 6 per mensem in the wages of the workers in Ramachandra Spinning and Weaving Mills and Suryanarayana Spinning and Weaving Mills, Pandalapaka (*see* page 80 of Mr. Venkataramayya's printed award published by the Government of Madras in 1947). The Government accepted the award and passed G.O. Ms. No. 4637, dated 18th December 1946, declaring that the award should be binding on all the textile mills in the Province and the workers therein for a period of one year in the first instance and that it should remain in force thereafter subject to such conditions and for such period as the Provincial Government might specify.

3. Mr. Sherfuddin, the adjudicator appointed in September 1946, submitted his award on 23rd December 1946 recommending the payment of a dearness allowance to the workers in the Ramachandra Mills and Suryanarayana Mills at the rate of Rs. 8 a month to male adults, Rs. 6 a month to female adults and Rs. 4 a month to juvenile workers with effect from 1st October 1946. The Government accepted this award and issued G.O. Ms. No. 39, dated 4th January 1947 directing that the award should be binding on the managements and the workers of the two mills "for a period of one year in the first instance or until it is revised by specific orders of the Government on the report of the Court of Enquiry now investigating the conditions of labour in the textile industry and thereafter shall remain in force subject to such conditions as may be imposed for such period as the Provincial Government may specify." The effect of Mr. Sherfuddin's award and Mr. Venkataramayya's interim award, both of which had been accepted by the Government, is that the workers in the two mills should get the increase in wages of Rs. 6 per mensem awarded by Mr. Venkataramayya as well as the dearness allowance awarded by Mr. Sherfuddin with effect from 1st October 1946.

4. On 15th April 1947 the Government issued G.O. Ms. No. 1629 converting Mr. Venkataramayya from a Court of Enquiry into an industrial tribunal under the Industrial Disputes Act, 1947, which had been in force since 1st April 1947. Mr. Venkataramayya gave his final award on 19th June 1947 by which he fixed a basic wage of Rs. 26 per mensem for all the textile mills in the Province and also directed the payment of a dearness allowance with effect from 1st April 1947 at the rate of three annas per point in respect of certain mills and As. 2-6 per point in respect

of certain other mills on the cost of living index fixed for Madras City above 100 points. We are concerned in this case only with the Ramachandra Spinning and Weaving Mills and, so far as these mills are concerned, his award is that the workers should get dearness allowance at the rate of As. 2–6 per point on the cost of living index over 100 points. (*See* pages 13 and 64 of Mr. Venkataramayya's printed award.) This is what he says at page 64 of his award with regard to Sri Ramachandra Spinning Mills :—

"This is a mill of over 6,000 spindles and their ability to pay the interim relief and the dearness allowance cannot be doubted. Moreover this mill comes within the award of the industrial tribunal which has been submitted to Government and therefore, must pay the wages and dearness allowance as recommended therein in respect of this mill, subject to this condition that such payment as per the final award shall be made after the expiry of one year from the date of the District Judge's award. The other recommendations made concerning mills in the province of this size shall apply to this mill and must be given effect to."

5. The Government issued G.O. Ms. No. 3080, Development, dated 15th July 1947, on the basis of Mr. Venkataramayya's final award declaring it to be binding on the managements and the workers of all the textile mills in the province of Madras and also directed that the award should come into operation on 1st April 1947 and remain in operation for a period of one year. The effect of this Government Order in my opinion is that Mr. Sherfuddin's award and Mr. Venkataramayya's interim award are superseded by Mr. Venkataramayya's final award with effect from 1st April 1947 and that from the date it is only the wages and dearness allowance fixed by Mr. Venkataramayya in his final award that should be paid by Sri Ramachandra Spinning Mills to its workers. I may add that there is no dispute before me that the wages and dearness allowance fixed by the various adjudicators have not been paid at all and it is conceded on behalf of the workers that the arrears of wages, etc., due to them up to and including 30th June 1947 were paid to them on that date.

6. On 11th June 1947 the management of the Ramachandra Spinning Mills sent a notice to the Inspector of Factories, II Circle, Rajahmundry, informing him that it had been decided to close the mills from 4th July 1947 as they had been suffering loss on account of the payment of the increased wages and allowances under the awards of the adjudicators and also on account of the high price of cotton and sent a copy of the notice, Exhibit E to the President of the Pandalapaka Factory Labour Union. To this the Secretary of the Union sent a reply, Exhibit III, dated 16th June 1947, protesting against the decision to close the mills and pointed out that it constituted a breach of the terms of the awards made by the adjudicators. The mills were closed on 1st July 1947 and they have remained closed ever since.

7. As already stated the Government referred the dispute to this tribunal for adjudication on 10th July 1947 and on the very next day they passed another Government Order prohibiting the continuance of the lockout under section 10 (3) of the Industrial Disputes Act.

8. The management filed a statement of their case in October 1947 in which it is alleged that they were forced to close down the mills from 1st July 1947 as they had incurred heavy losses on account of the rise in the price of cotton and on account of the heavy " salaries " recommended by the adjudicators (Mr. Sherfuddin and Mr. Venkataramayya). It is pointed out that the management had to pay between 30th October 1946 and 30th June 1947 a sum of Rs. 42,466-11-0 to the workers for arrears of wages and dearness allowance and that during the financial year from 1st April 1946 to 31st March 1947 they suffered a loss of Rs. 15,941-13-2 and from 1st April to 30th June 1947 they suffered a loss of Rs. 15,419-7-9.

9. The Pandalapaka Factory Labour Union filed a statement in the same month in which it is alleged that the closure of the mills is not justified and that the lock-out declared by the management is illegal inasmuch as its continuance has been prohibited by the Government under section 10 (3) of the Act. It is also alleged that the management wilfully delayed giving effect to the awards of the two adjudicators for a period of six months and that they ultimately paid the arrears of the dearness allowance, etc., due to the workers only after pressure has been brought to bear on them by the Government and their officers. It is also alleged that a number of workers have been wrongfully dismissed and that the wages and dearness allowance due to them have not been paid. Lastly, it is contended that the workers are entitled to their full wages and dearness allowance as per the adjudicators' awards for the entire period during which they are in force.

10. On 18th November 1947 while I was camping at Cocanada the Factory Labour Union filed a supplementary written statement with substantially the same allegations as those contained in their previous written statements.

11. The two following issues have been framed with the consent of both sides :—

(1) Are the mills justified in closing down from 1st July 1947?

(2) Are the workers entitled to wages and dearness allowance for the full period during which the award of the Industrial Tribunal is to be in force according to the orders of the Local Government. The other contentions of the Labour Union were given up.

12. *Issue* 1.—I have already stated that the management of the Ramachandra Spinning Mills sent a notice to the workers on 11th June 1947 informing them of their decision to close the mills

from 1st July 1947 and actually closed them on the latter date. The closure of the mills amounts to a lockout as defined in section 2 (l) of the Industrial Disputes Act, 1947. A lockout is defined there as the closing of a place of employment or the suspension of work or the refusal by an employer to continue to employ any number of persons employed by him. Whatever view may be taken with regard to the legality of the closure on 1st July 1947 there can be no doubt that after 11th July 1947 it is illegal and that it continues to be illegal till the conclusion of the proceedings before this tribunal. For, on 11th July 1947 the Government of Madras issued G.O. Ms. No. 3031, prohibiting the continuance of the lockout in the Ramachandra Spinning and Weaving Mills under section 10 (3) of the Act. Under section 26 (2) of the Act any employer who commences, continues, or otherwise acts in furtherance of a lockout which is illegal under this Act shall be punishable with imprisonment for a term which may extend to one month or with fine which may extend to Rs. 1,000 or with both: From this it follows that the workers in the mills are in any event entitled to their wages and dearness allowance from 12th July 1947 till the publication of this award by the Government by means of a Government Order [*see* section 20 (3) of the Act.]

13. It was argued by the learned advocate for the mills that there has never been an industrial dispute between the management and the workers in these mills and that therefore the reference to this tribunal for adjudication is incompetent. This contention cannot be accepted. An industrial dispute is defined as follows in section 2 (*k*) of the Act :—

"Industrial dispute" means any dispute or difference between employers and employees, or between employers and workmen or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour of any person."

14. The dispute between the management and the workers in this case is whether the mills should be closed or they should remain open. It is therefore a dispute which is connected with the employment or non-employment of the workers in these mills of whom there are about 400. If the mills are closed, about 400 workers are thrown out of employment whereas if the mills are open the same number of workers will find employment. I therefore hold that there is an industrial dispute between the management and the workers in this case and that the reference by the Government to this tribunal is competent under the Act.

15. It was next argued by Sri C. R. Dikshitulu for the mills that it is not open to this tribunal to go into the question whether the continuance of the lockout after 11th July 1947 is illegal or not because the reference to this tribunal was made on 10th July 1947 and the Government Order prohibiting the continuance of the lockout was passed subsequently, though on the very next

day. His contention appears to be that the only question that I am competent to decide is whether the closure of the mills on 1st July 1947 is justified or not and that I cannot take note of anything that has taken place after the reference to this tribunal. I cannot accept this contention either. If during the pendency of a suit or proceeding a new enactment is passed by the legislature which has the effect of altering or modifying the law applicable to the case, the court is bound to take notice of it and give effect to the new enactment. Similarly if, after a reference to a tribunal, the Government issues a notification on which makes the continuance of the strike or lockout illegal the tribunal is bound to take note of it and to say that whatever may be said about the legality of the strike or lockout on the date of the reference, it certainly has become illegal after the notification by the Government under section 10 (3) of the Act and that it continues to be illegal till the conclusion of the proceedings before the tribunal.

16. I shall now consider the question whether the lockout declared by the management on 1st July 1948 is legal and justified. It is argued on behalf of the labour union that the lockout is illegal from its commencement inasmuch as it was declared while the final award of Mr. Sherfuddin and the interim award of Mr. Venkatramayya were in force and reliance is placed on section 23 (*c*) of the Industrial Disputes Act, 1947 which is as follows :—

No workman who is employed in any industrial establishment shall go on strike in breach of contract and no employer of any such workman shall declare a lockout.

* * * *

" during any period in which a settlement or award is in operation in respect of any of the matters covered by the settlement of award."

17. It will be seen that two conditions have to be satisfied before a lockout can be said to be illegal under section 23 (*c*) : (1) it must be declared while a settlement or award is in operation, and (2) the lockout should be in respect of any of the matters covered by the settlement or award. In the case before me the first condition is certainly satisfied. I have already stated that after the passing of G.O. No. 3080, dated 15th July 1947 the final award of Mr. Venkataramayya has come into force with effect from 1st April 1947 in supersession of the award of Mr. Sherfuddin and the interim award of Mr. Venkataramayya. Now the question is whether the second condition specified in section 23 (*c*) of the Act has also been satisfied. The adjudicator Mr. Venkataramayya has directed that the Ramachandra Spinning and Weaving Mills should pay the basic wage and dearness allowance awarded by him for such period as the Government may prescribe and the Government has passed a Government Order directing that the wages and the dearness allowance awarded by the adjudicator should be paid by the management of the mills for a period of one

year from 1st April 1947. This necessarily means that the mills should remain open and not be closed during this period, for if they were to be closed how could the workers get the wages and the dearness allowance recommended by the adjudicator? I therefore hold that, though there is no specific direction either in the award of Mr. Venkatramayya or in the Government Order, dated 15th July 1947 passed by the Government to the effect that the mills should be working for a period of one year there is by necessary implication a direction to this effect in the award as well as in the Government Order. Of course there may be cases where the mills have to be closed for reasons over which the management have no control and for which they cannot justly blamed, such as an act of God. But the implied prohibition in the award of Mr. Venkataramayya and in the Government Order is to the effect that the mills should not be closed for the period that the award is in force as the result of any deliberate act or omission on the part of the management.

18. It was argued by Mr. C. R. Dikshitulu for the management of the mills that the question whether the management would be justified in closing down the mills on the ground that they have suffered losses in the past has not been considered by any of the adjudicators, that no finding is given on that question, and that it is therefore perfectly open to the management to close the mills on this ground and that this is not a matter which is covered by the award so as to attract the operation of section 23 (c) of the Act. This contention cannot be accepted. At page 64 of his final award Mr. Venkataramayya observes as follows with regard to Sri Ramachandra Spinning Mills and Suryanarayana Spinning Mills, Pandlapaka :—

"There is really no dispute in these mills. All that the management tells me is that they are unable to pay the interim relief granted by the Court of Enquiry and the dearness allowance allowed by the adjudicator, the District Judge of East Godavari."

19. Immediately afterwards he says with regard to Sri Ramachandra Spinning Mills that "this is a mill of over 6,000 spindles and their ability to pay the interim relief and dearness allowance cannot be doubted." From these observations of Mr. Venkataramayya it is clear that the question of the capacity of the mills to pay the increased wages and dearness allowance was raised before him that it was considered by him, and that he came to the conclusion that the financial resources of the mills were such as to enable them to implement the award for the period that it was in force. For these reasons I hold that the second condition in section 23 (c) of the Act is also satisfied and that the declaration of the lockout on 1st July 1947 is illegal as it is in respect of a matter covered by the final award of Mr. Venkataramayya.

20. Apart from the legal position even on the merits, I am of the opinion that there is no justification for the closure of the mills from 1st July 1947. The case of the management is that they had

suffered a loss of Rs. 15,944-13-2, in the financial year 1946-47 and a loss of Rs. 15,419-7-9, for the three months from 1st April to 30th June 1947, and that they therefore decided to close the mills from 1st July 1947. To these losses, according to the management should be added a sum of Rs. 42,466-11-0 which is the arrears of dearness allowance due to the workers, from 1st October 1946 to 30th June 1947 under the awards of the two adjudicators' Mr. Sheriuddin and Mr. Venkataramayya and which was paid to them on 30th June 1947. The management have filed their account books, Exhibit A series, B series and C series in support of their contention. They have also filed Exhibits I series which are extracts from their account books for the years 1941-46. But curiously enough they have not filed an extract for the year 1946-47. Mr. C. V. K. Rao, who cross-examined the management's witnesses on the account books has elicited a number of facts which go to show that the accounts have not been properly kept and that the profit and loss for each year have not been correctly arrived at. I shall briefly refer to some of the irregularities in the way the accounts are kept—(1) The three proprietors of the mills have got other business besides the Ramachandra Spinning Mills. They got the Mohana Ramachandra Rice Mills and the Radhakrishna Rice Mill at Pandalapaka and the Ramachandra Cotton Spinning Mill at Cocanada. The profit and loss from these business have also been included in the accounts relating to the Ramachandra Spinning Mills, which in my opinion is a serious irregularity. In the extract filed for 1945-46 a sum of Rs. 1,902-12-0 is included in the expenditure of the mills which is really the expenditure incurred for engine repairs to Mohana Ramachandra Rice Mill which has nothing to do with the Ramachandra Spinning Mills. [See Exhibit I (3).] In the same statement is included an item of Rs. 1,642-5-6 which is the "rent and loss on account of Mohana Ramachandra Rice Mill".

21. The extracts, Exhibit I series, filed by the management show that every year interest was being taken by the partners on the capital invested by them. Exhibit I (3) shows, that a sum of Rs. 30,602 and odd was paid towards interest in the year 1945-46. From Exhibit A the ledger for 1945-46 we find that out of this amount a sum of nearly Rs. 24,000, was taken as interest by the two partners, Sri Bhami Reddi and Sri Subbi Reddi (see page 867 of Exhibit A.) It is said that each of the three partners has contributed a capital of Rs. 40,000. From Exhibit I (3) it is seen that in the year 1945-46 the Ramachandra Spinning Mills incurred a loss of Rs. 8,354 and odd. According to section 13 (c) of the partnership Act, a partner who is entitled to interest on the capital subscribed by him shall take it only from the profits and is not entitled to any interest if the business ends in loss. The payment of nearly Rs. 24,000 to two of the partners in the year 1945-46 is a gross irregularity and, if this item is excluded, we find there is no loss at all in that year.

23. We find the same irregularity in the accounts for 1946–47 also. It has been elicited in the cross-examination of management's witness 2 that in 1946–47 a sum of Rs. 26,378–2–0 and odd was paid as interest and that out of this amount a sum of about Rs. 24,000 was paid to the three proprietors (see page 732 of Exhibit A-1). If this item is excluded, we find there is no loss at all in that year, for the loss shown by the company is only a sum of Rs. 15,944–13–2

24. Management's witness 1, Karri Rama Reddi, has deposed that the two male partners, who are the working partners, get a bonus of 6¼ per cent on the profits and that no bonus is payable if the year ends in a loss. But we find that the proprietors have taken bonus even when the business ended according to them in a loss. In 1945–46 they took a sum of Rs. 948 and odd as bonus, when according to them, there was a loss of Rs. 8,354 and odd [see Exhibit I (*e*)]. Again in 1944–45 they took a bonus of Rs. 5,981 and odd when there was a loss of Rs. 72,572 and odd [see Exhibit I (*d*)].

25. Another irregularity relates to the manner in which the cost of the new machinery has been dealt with in the accounts. It is treated as an item of routine expenditure and is added to the losses. For instance, in the year 1946–47, more than Rs. 40,000 was spent on repairs to the mills and purchase of machinery (see page 662 of Exhibit A-1). It is not known how much was spent on repairs and how much on the purchase of new machinery. The cost of machinery must have been much more than the cost of repairs. This large sum of Rs. 40,000 and odd is included in the profit and loss account and as already stated a loss of Rs. 15,944 and odd is arrived at. This method of accounting, in my opinion, is incorrect. The purchase of new machinery is really an investment of capital or an item of capital expenditure and cannot be taken into account in the calculation of profit and loss.

26. From the foregoing, it will be seen that the Ramachandra Spinning Mills have not sustained any loss in the financial year 1946–47. When there was no loss in the previous year, there was no justification for closing down the mills abruptly from 1st July 1947 as the management have done. As regards the plea that they have sustained a loss of Rs. 15,000 and odd from 1st April to 30th June 1947, it is most surprising that the management should have calculated profit and loss for a period of three months in the middle of the year. No man of business would do so. Even here, it will be noticed that the partners have taken a sum of Rs. 5,127 as interest on their capital for these three months (see Exhibit A-3 the statement of accounts) and I have already stated that this is irregular. The management had to pay a sum of Rs. 42,466 and odd as arrears of wages and dearness allowance to the workers for a period of nine months from 1st October 1946 and this amount was paid on 30th June 1947. They would add this

amount to the alleged loss of Rs. 15,419 and odd and make out that they suffered a loss of Rs. 57,886 and odd for the three months —April, May and June 1947. This is an ingenious method. Mr. Venkataramayya's award was published by the Government in December 1946 and Mr. Sherfuddin's award in the beginning of January 1947. The wages under these awards are payable with effect from 1st October 1946. The management did not make any payments under these awards for a period of six months and when pressure was brought to bear on them by the Government. they paid the arrears on 30th June 1947 and closed the mills on 1st July 1947. If the management had paid the wages and the dearness allowance promptly and punctually every month, this sum of Rs. 42,466 and odd would have been evenly distributed over all the months and probably no loss would have resulted. However, as already stated the management had no justification whatsoever for closing the mills in the middle of a financial year. The closure of the mills is, in my opinion, more a protest against the awards of the adjudicators than a prudent act of management necessitated by the financial position of the mills.

27. My finding on this issue, therefore, is that there is no justification for the closure of the mills from 1st July 1947.

28. An attempt has been made by the factory labour union to show that the management of the mills have not brought to account all the yarn produced in the mill and that a portion of it was being sent to the black-market for sale. But this serious charge has not been proved. This argument is founded on Exhibits II series which are statements showing the production of yarn and which are said to have been prepared by one Karri Satyanarayana Reddi, a clerk of the mills. It is conceded by the management's witnesses that pink sheets like Exhibits II series are in use of the mills but it is denied that Exhibit II series were prepared by anyone in their service. Karri Satyanarayana has not been examined and there is no proof that these documents were prepared by anyone in the mills at the direction of the management.

29. *Issue* 2.—From my finding on the first issue, it necessarily follows that the workers in the mills are entitled to the wages and dearness allowance according to Mr. Venkataramayya's final award which is declared by the Government to be binding on both the parties in G.O. Ms. No. 3080, Development, dated 15th July 1947. According to this Government Order, the award comes into operation on 1st April 1947 and remains in operation for a period of one year. i.e., till and including 31st March 1948. The arrears due to the workers till and including 30th June 1947 have admittedly been paid. They are now entitled to get their basic wage of Rs. 26 per month and dearness allowance at the rate of As. 2-6 per point on the cost of living index over 100 points from 1st July 1947 till and including 31st March 1948 and it is ordered accordingly.

Order—Ms. No. 338, Development, dated 23rd January 1948.

Whereas the award of the Industrial Tribunal, Bezwada in respect of the industrial dispute between the workers and the management of Sri Ramachandra Spinning and Weaving Mills about the closure of the mills has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the award shall be binding on the management of Sri Ramachandra Spinning and Weaving Mills, Pandalapakka, and the workers employed therein, and directs that the said award shall come into operation on the 23rd day of January 1948.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

VII

BEFORE THE INDUSTRIAL TRIBUNAL, BEZWADA.

SRI P. MARKANDEYALU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

SRI RAMA SUGAR MILLS, BOBBILI

and

THE WORKERS.

Award in terms of the memorandum of compromise.

G.O. Ms. No. 456, Development, dated 2nd February 1948.

[Labour—Disputes—Dispute between the workers and management of Sri Rama Sugar Mills, Bobbili—Recommendations of the Industrial Tribunal, Bezwada—Orders passed.]

READ—the following paper :—

(1)

G.O. Ms. No. 5699, Development, dated 9th December 1947.

(2)

From the Industrial Tribunal, Bezwada, dated 24th January 1948, No. Nil.

BEFORE SRI P. MARKANDEYULU, M.A., B.L.,
Industrial Tribunal, Bezwada.

[In the matter of the industrial dispute between the management and workers of Sri Rama Sugar Mills, Limited, Bobbili, referred to this Tribunal for adjudication in G.O. Ms. No. 5699, Development, dated 9th December 1947.]

AWARD.

When I visited Bobbili at the end of December 1947 in connexion with the above industrial dispute, the Management of the Sri Rama Sugar Mills, represented by the Secretary Sri R S. Rao and the labour union represented by Sri K. S. Tilak, the President, both reported to me that the dispute had been amicably settled between the parties on 29th November 1947 and in support of the statement filed a memorandum of compromise with a schedule of scales of pay attached, signed by both of them which is annexed hereto.

The President of the labour union said that he did not want an award in terms of the compromise but the Secretary of the management said that it would be better if an award was passed in terms of the compormise but that he did not press for it.

I think it is desirable that the agreement between the parties should be embodied in the form of an award passed by the Tribunal so that it can be enforced between the parties if either of them does not abide by it. I therefore hereby pass an award in terms of the memorandum of compromise, dated 29th November 1947, filed before me.

ANNEXURE.

In reply to the memorandum of grievances submitted by the Sri Rama Sugar Mills Labour Union, the management, after due consideration, have agreed to grant the following :--

1. Increase of basic salaries for the different classes of workers as per grades, a schedule of which is herewith attached.

2. Dearness allowance at As. 2 per point after deducting the first 100 points.

3. Bonus of one month's salary including existing dearness allowance from profits earned during 1946–47. This bonus has already been paid on the day preceding Dipavali.

4. Regarding the payment of future bonuses, it is not expedient or practicable nor even possible to make any definite promises because the payment of bonus will depend on conditions obtaining in future years which have yet to happen and cannot now be ascertained. However, the company is prepared to pay one month's bonus provided sufficient profits are earned in future years.

5. It is not possible to grant dearness allowance or bonus with retrospective effect as it would mean re-opening of past appropriations which would make business impossible.

6. When steel, cement and building materials are available suitable quarters will be provided for the permanent employees of the company.

7. The seasonal employees of the company will be given the same facilities as the permanent employees regarding basic salaries and dearness allowances.

8. Provident fund for the permanent employees has already been started.

9. The following leaves with full pay will be granted to the permanent employees :—

Ten days sick leave.
Ten days casual leave.
Ten days privilege leave.

In addition, seven days festival holidays with full pay will be continued.

10. Privilege leave will be allowed to accumulate fo two years but the accumulated privilege leave cannot be availed of in one stretch during crushing season.

11. When a worker works in a higher post for a period of ten days or more in any month, he will be paid the wages of that higher post.

12. New scales of pay and dearness allowances would come into force from 1st November 1947.

13. Those workers who are drawing higher basic salaries at present than the grades to which they belong, will continue to draw the same basic wage.

For the Sri Rama Sugar Mills, Limited.
R. S. RAO,
Secretary.

Bobbili, 29th November 1947.

ENCLOSURE.

THE SRI RAMA SUGAR MILLS LIMITED, BOBBILI AND SEETHANAGRAM.

STATEMENT SHOWING PROPOSED SCALES OF PAY.

Mechanical Department.

	Minimum pay.			Increment per year.			Maximum pay.			Period required to reach maximum.
	RS.	A.	P.	RS.	A.	P.	RS	A.	P.	YRS.
1 Fitters—										
A grade	60	0	0	1	8	0	75	0	0	10
B grade	25	0	0	1	4	0	35	0	0	8
C grade	20	0	0	1	0	0	25	0	0	5
2 Turners—										
A Grade	35	0	0	1	8	0	50	0	0	10
B grade	25	0	0	1	4	0	35	0	0	8
C grade	20	0	0	1	0	0	25	0	0	5
3 Blacksmiths—										
A grade	35	0	0	1	8	0	50	0	0	10
B grade	25	0	0	1	4	0	35	0	0	8
C grade	20	0	0	1	0	0	25	0	0	5
4 Moulders—										
A grade	35	0	0	1	8	0	50	0	0	10
B grade	20	0	0	1	0	0	25	0	0	5
5 Beltmen	9	0	0	0	4	0	10	8	0	6
6 Engine drivers	12	0	0	0	8	0	15	0	0	6
7 Boiler attenders—										
A grade	35	0	0	1	8	0	50	0	0	10
B grade	25	0	0	1	4	0	35	0	0	8
C grade	20	0	0	1	0	0	25	0	0	5
8 Firemen—										
A grade	12	0	0	0	8	0	50	0	0	6
B grade	9	0	0	0	4	0	10	8	0	6
9 Fire cleaners	8	12	0	0	4	0	10	0	0	5
10 Fitter helpers	12	0	0	0	8	0	15	0	0	6
11 Calasies—										
A grade	12	0	0	0	8	0	15	0	0	6
B grade	9	0	0	0	4	0	10	8	0	6
12 Sarang—										
A grade	35	0	0	1	8	0	50	0	0	10
B grade	25	0	0	1	4	0	35	0	0	8
13 General coolies	8	12	0	..			..			
14 Electricians and wiremen—										
A grade	25	0	0	1	4	0	35	0	0	8
B grade	20	0	0	1	0	0	25	0	0	5
15 Store boys	8	12	0	..			..			
16 Hammermen	9	0	0	0	4	0	10	8	0	6
17 Cane maistries	10	0	0	0	8	0	12	0	0	4
18 Lathe helper	12	0	0	0	8	0	15	0	0	6
19 Oil boys	8	12	0	..			..			

Order—Ms. No. 456, Development dated, 2nd February 1948.

Whereas the award of the Industrial Tribunal, Bezwada, in respect of the industrial dispute then existing between the workers and management of Sri Rama Sugar Mills, Bobbili, has been received.

2. Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of Sri Rama Sugar Mills, Bobbili, and the workers employed therein and directs that the said award shall come into operation on the 2nd day of February 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

VIII

BEFORE THE INDUSTRIAL TRIBUNAL AT CALICUT.

N. D. KRISHNA RAO, ESQ., M.A., BAR.-AT-LAW, I.C.S.,

District and Sessions Judge of South Malabar.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF K. P. NEELAMBI AND SONS AND OF ALL HANDLOOM FACTORIES IN CALICUT

and

THE WORKERS.

Subject.—Whether the demand for dearness allowance and bonus are matters of industrial dispute as defined in the Act.—Held that the workers can logically claim payment of reasonable dearness allowance and reasonable bonus as implied term of their employment and that they are matters of industrial dispute as defined in the Act.

2. *Wages—Whether should be revised and if so in what way.*—*Held* that the figure given as the requirement of working class family is arbitrary,

that the ultimate test in fixing the workers' remuneration must necessarily be whether the industry can afford the wages.

Held further that as the Award will be in force for one year there is little purpose in fixing the minimum wages.

Held that the wages have not increased in proportion with the rise in the cost of living.

Awarded wage increases varying with the job and 100 per cent of the basic wage as dearness allowance.

3. *Bonus.*—*Held* that all the managements except Lotus Industrials should pay three months' basic wages as bonus and that if any other factory proved to the satisfaction of the Government that they cannot be required to pay bonus, the Government may remit or reduce the bonus. Bonus payable will be subject to conditions.

4. *Victimization of workers.*—(1) *Held* that the charge that the workers in the dyeing section were wantonly reduced is not correct. The management have proved that their yarn supply has been reduced.

(2) *Held* that the charge that the workers had been compelled to work for more than 8 hours without payment of overtime wages is not sustainable in the face of the management's letter to the President of the Union.

(3) *Held* that carpenter Gopalan was not dismissed without reason. He was purely a temporary hand who had to be discharged when the permanent workers returned to duty.

(4) *Held* that the charge that V. T. Chathukutti was not re-entertained when he returned to work has not been substantiated.

(5) *Held* that nalli carrier Kumaran was not re-employed as he did not return to work.

(6) *Held* that the charge that women were forced to rewind the bobbins contrary to agreement is not proved.

(7) *Held* that the charge that Andikutty was transferred to Packing Department is not substantiated even by the evidence of the worker himself.

(8) *Held* that V. Raman was transferred to some other department without reduction of wages owing to exigencies of management.

Held that there was no case of victimization of the workers after 20th November 1946.

G.O. Ms. No. 564, Development, dated 6th February 1948.

[Labour—Disputes—Disputes between the workers and management of Handloom Factories in Calicut—Recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 4734, Development, dated 6th October 1947.

(2)

From Mr. N. D. Krishna Rao, I.C.S., District and Sessions Judge, South Malabar, Calicut, dated 12th January 1948, No. nil.

IN THE COURT OF THE INDUSTRIAL TRIBUNAL AT CALICUT.

PRESENT :

N. D. KRISHNA RAO, ESQ., M.A., BAR.-AT-LAW, I.C.S.,

District and Sessions Judge of South Malabar and Industrial Tribunal.

Monday, the 12th day of January 1948.

INDUSTRIAL CASE NO. 7 OF 1947.

Between

Messrs. K. P. Neelambi and Sons, Calicut and Managements of all the Handloom Factories in Calicut,

and

Workers of Messrs. K. P. Neelambi and Sons, Calicut, and all the Handloom Factories in Calicut.

AWARD.

In G.O. Ms. No. 4734, Development, dated 6th October 1947, the industrial dispute which had arisen between the workers and the management of Messrs. K. P. Neelambi and Sons, Handloom

Factory, Calicut and the industrial disputes apprehended in other handloom factories in Calicut, have been referred to me for adjudication under the provisions of the Industrial Disputes Act, 1947. A list of the handloom factories in Calicut is given in Appendix I together with some particulars relating to their working. The representatives of the workers in these factories have various complaints regarding the employment and the conditions of labour in them. But they desired immediate relief in the matter of wages and bonus and have therefore limited their complaints in this inquiry to the questions appearing from the following issues :—

(1) Whether the existing wages should be revised and if so, in what way.

(2) Whether dearness allowance is not a matter of industrial dispute as defined in the Act.

(3) Whether bonus is not a matter of industrial dispute as defined in the Act.

(4) What bonus should be paid to the workers for the account year ending not later than 31st March 1947.

(5) Whether there was any victimization of the workers after the agreement, dated the 20th November 1946 between the workers and the management of Messrs. K. P. Neelambi and Sons, Handloom Factory in Calicut, and if so, what relief should be granted.

All the parties agreed to treat as part of the record, the material gathered in three previous references to me for adjudication between them, because the present comprehensive reference supersedes the previous ones.

2. *Issues* 2 *and* 3.—These two issues have been framed at the instance of the managements. With regard to dearness allowance, there contention is that it is not a term of the wage contract between them and the workers, and that its payment is not obligatory, as proved by the fact that their right to vary the dearness allowance from time to time has never been challenged. They advance the same argument as being even more applicable to the matter of bonus, which they claim to be a purely *ex gratia* payment. In my opinion, these propositions do not affect the point at issue at all, because of the definition of an "industrial dispute" in section 2 (*h*) of the Act as comprising "any dispute or difference between employers and workmen which is connected with the terms of employment of any person". The workers claim the payment under the headings of both dearness allowance and bonus, as part of the terms of their employment. They ask for dearness allowance on the ground of increased cost of living, and as the increase in the cost of living alters from

time to time it is in the nature of things that the allowance should also vary. They ask for bonus on the ground that the managements either have or ought to have made large profits and that the workmen are entitled to a share in those profits. Their justification for claiming a share is that it was the workmen's contribution to production which rendered the profits possible, and that bonus is really an integral portion of the workmen's remuneration, which was left to be determined after the result of the enterprise was known. There are precedents for holding that employees can claim the payment of bonus, though not as a legal right as " a matter of moral and economic right " (see the report of Lahore Eletric Supply Company adjudication at page 106 of the Indian Labour Gazette for September 1946); and all the more so, " when their wages are below the living wage standard " (see the report of Bombay City Textile Mills adjudication at page 586 of the Indian Labour Gazette for June 1947). In other words, the idea that the only possible place for the profits of an industry is the employers' pocket must be regarded as obsolete. Therfore workmen can logically claim not only the payment of reasonable dearness allowance but also of reasonable bonus as implied terms of their employment. I find on these issues that dearness allowance and bonus are matters of industrial dispute as defined in the Act.

3. *Issue* 1.—For the purpose of this issue, it is necessary to set out briefly the prevailing systems and scales of wages in the handloom factories at Calicut. Complete information is not available as only some of the factories have put in appearance or answered the questionnaire issued to them. The Calicut Handloom Factory Owners' Association, which was formed in 1945 and of which 38 factories are members, is not able to give details regarding the absent factories. The Commonwealth Trust Limited, The Standard Cotton and Silk Weaving Company, Limited, and the Kerala Textiles, Limited, are not members of the Association and only the first two among them are represented before me. The workers' representatives very rightly sought to depend on the books and the statements of the managements rather than adduce oral evidence of individual workers. But in several instances the materials furnished by the managements are either inadequate, incomplete or unintelligible. I have taken the Owners' Association as speaking for all its members on matters common to them. I have also derived valuable assistance from the statements furnished by the Commonwealth and from my visits to their factories.

4. All the handloom factories at Calicut obtain their requirements of yarn from mills elsewhere, either directly or through dealers. Only three of them, namely, the Commonwealth, the Standard, and the Kerala Textiles got their yarn direct from the mills at ex-mill prices. They got the full yarn ration and are therefore able to give full employment each month to their workers. The remaining 33 factories obtain such fractions of their yarn ration as are allotted to them by the Textile Control Department. Those

having more than 25 looms get their supply from wholesale dealers at ex-mill prices plus 7½ per cent and those having less than 25 looms get their supply from retail dealers at ex-mill prices plus 15 per cent. It appears that their receipts of yarn have been steadily decreasing since 1945, and further that they have to suit the patterns which they manufacture to the particular counts of yarn which happen to be received. Owing to these reasons, they are not able to give full or steady employment to their workers, a fact which has accentuated the disparity between the workers' earnings and expenditure in a period of rising prices.

5. The workers in the handloom factories are employed for (1) dyeing or bleaching the yarn, (2) winding the yarn on nallis, i.e., bobbins and pirns, (3) doubling (preparing for twisted yarn), (4) warping, (5) healding, i.e., preparing new healds for weaving, (6) warping-joining and weaving, (7) processing the manufactured cloth, (8) miscellaneous duties such as fitting and repairing the looms, carrying nallis to warpers and weavers, packing and despatching the goods and other unskilled labour. In the dyeing and bleaching department, the employees are paid time wages either by the day or by the month, by all the members of the Owners' Association. The Commonwealth and the Standard however give them piece wages. The next five groups of workers are employed on the piece-work basis in practically all the factories, the wages for warp-joining being paid by the weaver himself out of his earnings. In the operation of processing the manufactured cloth, time wages are paid except for tailors, hammers and stitchers who are piece-workers in a few factories. The final group of workers belongs to the time wages factory.

6. As regards piece-workers, all the members of the Owners' Association purport to have adopted the schedule of wages given in Appendix II. It is said that these uniform rates were introduced on 1st April 1945 soon after the Association was formed, and that other rates at a corresponding or higher level have been paid only for patterns and categories of workers not covered by the schedule. Dearness allowance at about 25 per cent of these basic rates began to be paid some time later and was gradually increased from time to time until it reached cent per cent with effect from 15th May 1946. It is not necessary for our present purpose to deal with the pros and cons of the workers' complaint that a few members failed to implement the rates fixed by the Association. It is sufficient to note that the members accept these wages as the proper wages they had to pay since 15th May 1946 and that there was no concerted increase of piece wages thereafter. As regards time workers, the wages paid by the members of the Association are not uniform and some give monthly wages for certain categories of work for which others pay daily wages. Broadly speaking the daily wages range from six annas which is paid for bobbin carriers (nalli boys) to a maximum of Rs. 1–10–0 for packers, Rs. 1–11–0 for dyers, and Rs. 2 and odd for carpenters.

7. The Commonwealth and the Standard have their own basic piece rates and pay in addition dearness allowance at 100 per cent. The Commonwealth have inceased most of their basic rates as compared with 1939, paid dearness allowance at 100 per cent from 1st April 1946, and introduced a minimum of Rs. 14 in respect of dearness allowance from 1st August 1946. The *average* monthly earnings of different categories of workers for October-November 1946 are shown below :—

(1) Piece-rate operatives	Range from Rs. 35–6–0 for weft winders to Rs. 68–13–0 for weavers.			
	RS.	A.	P.	
(2) Daily paid men, e g., coolies ..	29	4	0	
(3) Daily paid women	22	2	0	
(4) Daily paid youths below 21 ..	20	8	0	

The Standard paid the 1939 basic rates until 1941 and gave an increase for most patterns averaging 11 per cent on 11th October 1944. Their dearness allowance appears to have been about 90 per cent in 1945–46 and 100 per cent thereafter. The average monthly earnings during the first half of 1947 are shown below :—

(1) Piece-rate operatives	Range from Rs. 26–13–0 for winders up to Rs. 61–8–0 for weavers.
(2) Daily paid coolies	Range from Rs. 2.–8–0 in the printing section to Rs. 36–8–0 in the packing section.
(3) Carpenters	Rs. 51 0 0

The distinctive features to be noticed in these two factories are that they are able to provide full employment for their workers, that piece wages are paid in the dyeing and bleaching departments, and that winding at lower rates is done on machines. The Kerala Textiles have not furnished adequate or intelligible information regarding the wages paid by them but it is admitted by the workers' representatives that the earnings there are generally higher than in other factories.

8. It will be seen from Appendix II that the Association have fixed piece rates for only winding, doubling or twisting, warping, and weaving. In order to ascertain the earnings of the several categories of piece-workers, we have to know their normal output. As all the factories are working part-time owing to inadequacy of yarn, any figures of average output given by them are not useful for the purpose. The workers' representatives agreed that the relevant figures given by the Commonwealth or the Standard which

work full-time may be accepted. Such figures are available in respect of winding and warping. As regards a weaver's normal output there is considerable divergence of opinion among the managements, which is inevitable because the output mainly depends on the type of the fabric. Even the figure of 8½ yards per day given by the Commonwealth refers to the average of different varieties of cloth. The workers' representatives state that the normal output is seven yards per day for weaving a cloth of the following specifications :—Width 18 inches, Reed No. 24, Picks 44 per inch, Treadles 2, Shuttle 1, Healds 2 to 4, Yarn counts 2 × 20 for both warp and weft. The Cannanore Handloom Factory Owners' Association give seven yards per day as the average output of shirtings and coatings on double looms, without more detailed specifications of the cloth. But their figure is the mean based on 26 working days per month, while the Calicut workers' figure refers to only 23 working days per month, owing to the deduction of three days on which a loom has to remain idle for the purpose of changing the warp. I think that the workers' estimate of seven yards per day may be safely taken as the minimum output, i.e., of a weaver of little or moderate experience. The answers of most of the factories at Calicut show that the weaving wage for the above type of cloth specified by the workers is Re. 0-5-6 per yard including dearness allowance. Thus the earnings of piece-workers at the current rates of wages are as follows :—

Description of work.	Output per diem.	Rate. RS. A. P.	Earnings per diem. RS. A. P.	Remarks.
1 Winding bobbins.	Fourteen hanks.	0 1 2	1 0 4	Average output given by Commonwealth for hand-winding.
2 Winding pirns.	Ten hanks ..	0 1 8	1 0 8	Do.
3 Warping ..	Two warps of 100 yards.	1 8 0	3 0 0	Output given by Standard for an "efficient" warper. An average warper may be taken to earn Rs. 2-0-0 to Rs. 2-8-0 per day.
4 Weaving ..	Seven yards ..	0 5 6	2 6 6	Can work for only 23 days in a month.
5 Warp-joining (when paid by managements.)	Four yards ..	0 6 0 to 0 12 0	1 8 0 to 3 0 0	Rates and figures taken from answers of the factories.

In their statement filed on 8th March 1947, the Association have admitted that every ten days a loom has to remain idle for changing the warp and have given the earnings of a weaver of average experience as Rs. 15 a week. This works out to Rs. 2-8-0 a day, and roughly corresponds with the result arrived at above for a weaver. A weaver has to bear the expenses of warp-joining which

the workers estimate as Rs. 0–11–0 to Rs. 1–11–0 per month. If we take into account this deduction as well, the difference between Rs. 2–5–8 arrived at and Rs. 2–8–0 given by the Association may be explained as due to the lower experience I have assumed for the weaver.

9. I may at this stage deal with the workers' contention that the wage differences obtaining in the factories are unfair. After paying Re. 1–3–0 for warp-joining expenses, a weaver would earn Rs. 51–2–0 in a month of 23 working days. Consistently with this level, a piece-worker who can be employed for 26 working days ought to get Rs. 2–1–0 per day. Winding is generally done by women and " the average difference between the level of men's and women's wages is in most countries nearly as much as 50 per cent " (Maurice Dobb's Wages, page 156). Thus it cannot be said that a winder's earnings are disproportionately low as compared with a weaver. As to time wages, it appears reasonable to say " that piece-workers should be guaranteed more than the normal time-rate, namely, ' time-and-a-quater ', or ' time-and-a-third ', since men on piece-rates usually work at a greater intensity than time-workers, and the former may be suffering injustice if they are receiving no more than the latter while in practice doing more work " (Maurice Dobb's Wages, page 72). On this footing, if we take Rs. 2–1–0 to be also the wage level of an unskilled piece-worker, the wages of an unskilled time worker has to be Rs. 1–9–0 to Rs. 1–11–0 a day. We have also to bear in mind that in the nature of things, an unskilled labourer's daily wage in the open market varies from individual to individual according to his task and capacity for manual labour. With regard to youths, the workers' claim themselves recognize that the wages should be 10/22 or 45 per cent of a man's wages. Excepting the case of nalli boys whose proper wage level works out to 11 to 12 annas a day. I do not consider that the existing wage differences in the factories call for adverse comment. I would emphasize that my conclusions in this paragraph relate only to the question of the present wage differences, and not to the adequacy or otherwise of the wage level.

10. On behalf of the workers, objection has been taken to the present system of the weaver having to meet the expenses of warp-joining and of oil and wax for lubricating components of the loom. It is ascertained that in the majority of the factories the management themselves provide the lubricants, but pay for warp-joining only when the length of the warp does not exceed 25 yards. As regards warps exceeding 25 yards, the origin of the custom is explained as due to the fact that the weaver himself or his children used to join the warps. It appears that when the loom is lying idle on account of warp-joining, the weavers are engaged in helping one another for operations such as beaming. It is said that if the managements were to employ warp-joiners, a weaver may not make his loom available at the proper time, and that the present

system is condusive to smooth and efficient working. In my opinion, the only modification necessary of this part of the existing system is to secure uniformity, by requiring all the managements to pay for joining warps not exceeding 25 yards in length and to provide the lubricants required for the weaver.

11. The representatives of the workers demand a revision of the existing wages on three broad grounds. Firstly, they urge that the workers in those factories are entitled to a minimum living wage according to modern standards. In the second place, they contend that the workers are entitled at least to the same real wages as before the war and that the present wages have not kept pace with the rise in the cost of living. Lastly, they argue that the existing scales of wages are not scientific nor uniform, and that the object of the award would be easily defeated unless the items of work are defined more precisely.

12. The first ground is based on the familar argument in support of a minimum wage. It is claimed that the average monthly expenditure of a working class family of four members amounts to Rs. 111-12-0--Rs. 93-12-0 for maintenance each month plus Rs. 252 per year for items like clothing, utensils, medical aid and children's education. On this footing, a basic wage of Rs. 45 per month, together with 100 per cent dearness allowance and three months' earnings as annual bonus is put forward as absolutely necessary for every labourer. It is contended that managements can easily pay such a level of wages, as they have made huge profits for several years since the commencement of the war. The claim is also sought to be justified by a reference to the earnings of similar categories of other workers. The Central Pay Commission regarded Rs. 55 per mensem plus house allowance as a fair minimum wage at a cost of living index of 260, while the cost of living index at Calicut is about 350. The Industrial Tribunal for textile mills (Sri Rao Bahadur M. Venkataramaiya) awarded Rs. 26 as the minimum wage, plus Re. 0–2–6 per point on cost of living index as the dearness allowance. A free lance labourer at Calicut gets Rs. 2–8–0 per day as wages, and it is urged that the skilled workers in handloom factories should earn proportionately more.

13. The figure of Rs. 114–12–0 given as the requirement of a working class family is arbitrary. I have not been shown that it corresponds to the actual budgets of typical workers in the handloom factories. Nor can it be accepted as a general proposition that a presnt day worker has necessarily to spend an amount in the region of Rs. 90 for his maintenance. For instance, the investigation by a recent Court of Enquiry (Rao Bahadur Dr. B. V. Narayanaswami Naidu) revealed that the average expenditure per family of a beedi worker was Rs. 62–14–0, of cigar worker was Rs. 56–4–9, of a snuff worker was Rs. 73–5–7 and of a tanning worker was Rs. 58–7–9. In a predominently agricultural and industrially backward country like India, it would be disastrous to fix the wages

of an industrial worker on the basis of preconceived notions of standards of living. The industrialist has to be as apprehensive of the "buyers' strike" as of the "workers' strike", and it cannot be maintained that if an industry does not pay, both the employer and the employee should be submerged together in the cataclysm. The ultimate test for fixing the workers' remuneration must necessarily be whether the industry can afford the wages. The profits made by the managements during the boom of the war years cannot be a criterion of the stability of the handloom industry which was regarded before the war as a "decaying" industry. It is useful in this connection to recall the following sentences from the Report of the Fact Finding Committee:—

"If after a hundred years of mill competition the handloom industry is still able to employ such large numbers, certainly it indicates that the Indian handloom industry has a unique capacity for survival. It may be remembered that during this period the handlooms in nearly every other country have either disappeared or dwindled to a very small number. The virility of this industry is also indicated by the commendable adjustments made in certain centres in regard to the methods of production, designs, quality of work, etc., not only fly-shuttle sleys but dobbies and jacquards have been introduced in many places, and substantial improvements in workmanship have also taken place. The ills of the handloom industry described by us are the results of (various) unfavourable factors, and if these factors continue to operate unimpeaded it is certain that the handloom industry will eventually dwindle into a smaller size. Hitherto the hand-weavers have survived by their readiness to suffer privations. To quote Sir Alfred Chatterton "the handloom weaver still survive today because there is no alternative open to him. . . he can easily hold his own for a long time to come. . . since he is content to exist on but little more than the bare necessities of life". Left to itself, the industry will perhaps dwindle down to the position of a small handicraft concentrating on the production of a few speciality cloths. This is what has happened in many other countries. Thus, to take the case of Japan, a country in which the small scale industry is glorified, we notice that between 1923 and 1934 the number of handlooms engaged in the production of cotton cloth fell from about 1,50,000 to about 55,000. In countries like the United States of America, the few handlooms that survive are also confined to the production of speciality goods like upholstry cloths, table linen, etc. (Extract from pages 201–205.)
The managements apprehend that the trade depression which has to be normally expected after the war has already set in, and state that large stocks of their goods are even now lying unsold. Obviously, the principle adopted for fixing wages should not be such as to drive the managements to say that they are content with the profits they have already amassed, and would prefer to take no more risks by continuing to run their factories.

14. Moreover, there is one special reason why the argument for a minimum wage loses much of its force in the present dispute. Admittedly all except three of the factories covering 955 looms and 1,273 workers are able to get only a fraction of their yarn ration and are therefore unable to work full time. If they are required to provide a high level of wage for their workers, they have to work with maxmium efficiency, and be at liberty to discharge unnecessary or inefficient workers. But the workers' representatives themselves have pressed that this award should give no handle for the discharge of any worker on the ground of lack of employment. For this reason, they have given up their claim for either a flat or a minimum rate of dearness allowance except where the management has already been granting it as in the commonwealth, and want dearness allowance to be fixed as a percentage of the basic wage. In other words, any minimum wage that I am called upon to fix is to be operative in the vast majority of the factories only if and when they receive adequate yarn. As I propose that the award should be in force only for one year, I feel that there will be little purpose in attempting to lay down a minimum wage.

15. Turning to the second ground, the workers' complaint that the wages have not increased proportionately with the cost of living is well-founded. The cost of living index for Calicut reached its peak of 358 in August 1947 and was 351 in November 1947. It is not disputed that the wages have not increased 3½ fold as compared with those before the war, and that they are stationary in all the factories since May 1946. The principle of providing for the workers' increased cost of living has already been recognized by the managements giving dearness allowance. It is only fair that the workers should be compensated for the further increase in their cost of living, since April 1946 when the index for Calicut was only 274. On the question of whether it is right to link the wages with the cost of living index, I may usefully quote from Maurice Dobb's Wages (1944 edition, page 82):

"In a number of industries wage agreements provide that the money rates of wages agreed upon shall be attached to a certain index according to a sliding scale, and made to vary from time to time according to variations in this index. The three main types of sliding-scale in operation are those attached respectively to the cost of living index number, to the price of the product of the industry in question and to some index of the profits of the industry. The sliding-scale based on the cost of living index is the most common of the three. It is important to notice, however that in their pursuit of flexibility these sliding-scales follow different intentions. The sliding-scales based on profits or on selling-price are designed to cause wages to vary according as the prosperity of the industry varies, taking profit and selling price respectively as indices of this prosperity. As servant of this intention the selling price scale has the evident

weakness that by itself it is no true indicator of the state of trade; a fall in selling price may be an indication equally well of the fall in cost of some important raw material or of greater economy in the use of machinery as of a decline in the market demand for the product. A complaint made against the coal sliding-scale last contrary was that, not only did wages during bad times seem to have ' no bottom ', but that it encouraged competitive undercutting of coal prices to an excessive extent, since it gave an additional incentive (that of lower wages) to employers to reduce the price of coal. The cost of living scale, on the other hand, must clearly be judged by some other criterion. What the cost of living scale achieves is an approximate stability in *real* wages for the duration of a wage agreement. This may not suit the requirements of the employers in a particular industry, if they desire to adapt wage-rates to changing trade conditions. But if the intention of a trade union or a minimum wage authority in making a wage-agreement is to determine a certain level of real wages, rather than of money wages, then this type of scale can be said best to fulfil their intention. There is also this which is often said in defence of a cost of living scale; when large movements in the general price level take place, the prices of most things are likely to move in the same *direction*, if not in the same degree; and acordingly, this scale, while it secures to the worker a stable *real* wage, at the same time causes the money wage to be more flexible than would otherwise be the case, and flexible in the same direction as the movements of other prices."

The chief objection against making the wages depend on the cost of living is in the words of Dr. Thomas " in any industry wages must eventually depend upon the state of trade and the value of the product and neither of these varies with the cost of living index number " (commerce, its theory and practice). This objection merely emphasises that the wages should not exceed the industry's capacity to pay its employees.

16. It is not feasible to fix the wages for 1948 so as to correspond exactly with the pre-war real wages. Only the weaving rates for certain patterns in two of the factories (the Commonwealth and St. Vincent's) are available for guidance, and the majority (24) of the factories manufacturing those and different patterns came into existence after the war began. After considering all the materials before me, I have come to the conclusion that the only practicable course is to provide for the increased cost of living since April 1946. This means that the level of wages should be immediately increased to roughly 350/275 of the existing level as the index for December 1947 has not been published. If the dearness allowance is retained at 100 per cent of the basic wage, the basic wage should be increased by 3/11 and would correspond to the cost of living index No. 175. There is no harm in fixing the basic wage at that level as was done by the Central Pay Commission. If the experience of the First World War is any guide, it would take several years before

the level of 175 is reached. The cost of living index numbers for each month are published only about the third week of the next month. When the index number for Calicut for the second preceding month falls by 17 points the managements must be allowed to reduce the dearness allowance by 10 per cent.

17. The next question for consideration is whether the proposed increase of 3/11 is fair from the point of view of the worker and whether the industry can afford it. The circumstances show that the level of wages reached in May 1946 was accepted as satisfactory by the workers. They could not have been handicapped by lack of bargaining power, because the demand for handloom workers had increased owing to the establishment of several new factories even as late as in 1944, and the boom for handloom products was in full swing. In fact, we find that even in August 1946, the handloom workers in Cannanore were able to command an increase of 100 per cent in their basic wages, bringing their earnings to 300 per cent of the 1940 level, although the cost of living had not risen proportionately. The first note of dissatisfaction at Calicut, was voiced only in a resolution, dated 23rd June 1946 of the Calicut Textile Workers Congress, which demanded 25 per cent enhancement in the basic wages and a similar enhancement in the dearness allowance. But the matter was pursued by the workers of Messrs. K. P. Neelambi and Sons alone after partial employment on account of inadequate supply of yarn had commenced, and their main complaint was that they were being paid dearness allowance only at 87½ per cent instead of at 100 per cent.

18. A comparative statement filed by the Commonwealth shows that their weaving rates which came into force on 1st April 1946 were 200 to 264 per cent of their weaving rates in 1939. The cost of living index number for Calicut in March 1946 was 270, and it follows that these weaving rates did not lag far behind the rise in the cost of living. It has not been contended that the level of weaving rates as a whole adopted by the Owners' Association in May 1946 was less than the rate paid by the Commonwealth. Thus so far as weavers' wages are concerned, the effect of a minimum increase by 3/11 is to restore approximately the real wages of 1939.

19. The considerations set out above apply *mutatis mutandis* to time workers most of whom belong to the unskilled category. Owing to the conditions created by the war, the unskilled labourer was much in demand in South Malabar in 1946. The daily or monthly wages paid in these factories in May 1946 together with the general conditions of employment there, must have been competitive and satisfactory to the time worker. An examination of the books of the factories reveals that the wages vary from individual to individual, obviously the differences must be due to their respective capacities for manual labour. It would not be fair to fix a wage without at the same time prescribing the standard of efficiency. Workers are too ready to complain of victimization, and in the case of an unskilled worker it is particularly difficult to

determine whether his efficiency was on a par with his wage or whether he was victimized. It may be that after organized agitation for increase of wages commenced in June 1946, the time workers in these factories expected a *pari passu* enhancement of their wages. Therefore, it is sufficient if the time wages for the respective jobs are also increased by 3/11 as compared with those of 1946.

20. The case of two classes of time workers however calls for special consideration in view of the history of the dispute, and the extremely low wages paid for them in some of the factories. As early as in September 1946, Messrs. K. P. Neelambi and Sons Workers' Union demanded a daily basic wage of 6 annas for nalli carriers and I have already indicated that their daily wages including dearness allowance should have been 11 annas at the wage level of May 1946. With the 3/11 increase, nalli carriers ought to be paid a basic wage of 7 annas and the percentage of dearness allowance. Sweepers are being paid as little as 4 annas per day in some factories, but the amount of work for them naturally depends on the size of the factory. After taking into account the 3/11 increase and having regard to the local conditions I would award them a minimum basic wage at Re. 0–1–6 per hour for a man sweeper and 9 pies per hour for a woman sweeper subject to a limit of 9 annas and Re. 0–4–6 respectively for the whole day together with the percentage dearness allowance. The factories concerned may fix the number of hours of work required and calculate the wages accordingly.

21. From the point of view of the managements whose association fixed the wages in May 1946, it cannot be denied that the worker is in fairness entitled to be compensated for the subsequent increase in the cost of living. But it has been urged that any increase in the wages would seriously affect the market for handloom goods, as the result is to increase the cost of production at a time of imminent trade depression. The incidence of the 3/11 increase of wages can be gauged from the following statements :—

Abstract of the Association costing sheet for 24 yards of 30 inches shirting.

	RS.	A.	P.
Cost of materials	16	11	9
Wages	11	0	9
Overhead charges	5	1	3
Total ..	32	13	9
Add 15 per cent profit	4	15	0
Selling price .	37	12	0

3/11 increase would enhance the wages item and the cost of production by Rs. 3 for goods sold at about Rs. 38.

If we take the working of a factory as a whole the figures for the Commonwealth for the year ending 30th September 1946 are :—

	RS.	A.	P.		RS.	A.	P.
1 Cost of materials.	6,00,770	1	10	Sales *less* sales tax.	13,91,976	1	2
2 Wages	3,40,285	4	8				
3 Bonus already paid.	42,377	4	1				
4 Other working expenses including overhead charges.	2,68,926	14	2				
5 Profits	1,39,616	1	2				
Total ..	13,91,976	8	5				

3/11 increase in wages would enhance the wages item and the cost of production by about Rs. 93,000 for goods sold at about Rs. 13,92,000.

Once it is recognized that a certain increase of wages is an essential item of expenditure, it follows that the cost of production should be kept down if possible by effecting economies on other items. The producer cannot be heard to say that wages should never increase any more than he can urge that the cost of his raw materials should be fixed for ever. The Provincial Handloom Wages Board last year were not prepared to add any overhead charges at all to the cost of production, and it must be possible for the managements to make up for the increased wage bill by cutting down overhead charges.

22. The last ground for revision taken by the workers is that the existing wage structure should be rationalized and made uniform in all the factories without prejudicing any case where a worker is now receiving higher wages. It is pointed out that the associations schedule of wages is unscientific as it does not fix the identity of the warp or the cloth, but mentions merely the breadths and names of the patterns, and permits a range of variation of wages for the same variety of cloth. The association state that the range of variation is intended for differences in specifications such as picks, ends, etc. Even for cloth of the same specifications, I do not consider the range of variation to be unfair, having regard to the existing conditions under which smaller factories have to purchase yarn at comparatively higher prices. The names of the patterns in Appendix II are those usually manufactured by the factories at Calicut ,and the parties can have no difficulty in fixing the identity of the fabric.

23. No doubt a scientific schedule of wages fixing variations for width, reed number, ends and picks per inch, treadles, shuttles, healds, and counts of yarn is more desirable. But the problem is extremely complex, and I must confess that in spite of the enormous pains I have taken since August 1947, I do not find myself

anywhere near a satisfactory solution. The workers' representatives presented on 13th August 1947, tables showing variations of wages proposed by them, for the different specifications fixing the identity of cloth. But on scrutinizing them I find that they would prove inequitable in their working. From the scientific point of view, they reduce the existing wages for some patterns just as they enhance the wages for others. But from the practical point of view, the portions effecting reduction are to have no effect under the saving clause. The tables are not scientific to the extent that they can be safely adapted *in toto* even where they would reduce the existing wages. There are numerous defects in them. For instance, the cloth defined in them as the standard (vide paragraph 8 above) is stated by the workers' representatives to contain 72 ends per inch as the reed number is 24 (German system). But it is ascertained that it is difficult if not impossible to have so many ends per inch in 2/20s, and that the managements have understood the number of ends to be quite different. Thus the Commonwealth have taken the cloth to be curtain material with only 40 ends. The tables do not provide for complicating factors, such as different counts of yarn being used for warp and weft, and cloth of lower width being woven on a wider loom. Further criticisms of the tables presented on behalf of the workers would serve no useful purpose. I shall content myself with saying that it is impossible to adopt them even as a foundation. In order to frame complete tables of variations of wages according to specifications of the fabric, an elaborate investigation of the specifications and the rates for the cloth now manufactured in the different factories would be necessary. The investigation would take more time, but the workers want a revision of wages if at all without any delay. In these circumstances, I have reluctantly come to the conclusion that although a good deal of time has been already spent for the purpose, it is not possible in this award to frame scientific tables of wages independent of Appendix II.

24. It may, however, be useful to compare the broad effect of the 3/11 increase proposed in this award with the scale of wages claimed by the workers. In their tables, they ask for Re. 0–8–0 per yard for weaving the cloth of the specifications given in paragraph 8 above. The existing wage is generally Re. 0–5–6 per yard, and the 3/11 increase would enhance it to Re. 0–7–0 per yard.

25. In the result, I find on this issue that the existing wages should be revised in the following manner:—

(1) Basic wages for winding, doubling or twisting, warping and weaving shall be not less than 14/11 of the rates given in Appendix II.

Explanation.—The names of the several fabrics in Appendix II shall be understood as referring to such fabrics manufactured in the factory concerned in 1946 or 1947.

(2) For fabrics not covered by Appendix II, the basic wages shall not be less than 14/11 of the rates which prevailed in the factory concerned in May 1946:

Provided that if such a fabric was not manufactured in the factory concerned in May 1946, basic wages shall be fixed with reference to the basic wages for the nearest similar fabrics manufactured in the factory.

(3) Basic wages for all other categories of piecework and for time workers paid either by the month or by the day shall be 14/11 of their basic wages in May 1946.

(4) Basic wages for nalli carriers shall be not less than 7 annas per day; and for sweepers not less than As. 1-6 per hour (men) and 9 pies per hour (women) subject to a limit of 9 annas and As. 4-6 respectively for the whole day.

(5) Dearness allowance shall be paid at 100 per cent of the basic wages as determined above.

(6) For every fall in the cost of living index for Calicut by 17 points in any month, dearness allowance shall be reduced by 10 per cent in the second succeeding month.

(7) Nothing in this award shall be understood as operating to reduce the existing wages of any worker.

(8) For the purpose of the above calculations fractions of a pie shall be rounded off to the nearest pie. But the total wages for a week or a month may be rounded off to the nearest anna.

The revision of wages may take effect from 16th January 1948 and be in force for one year.

26. *Issue* 4.—The frame of this issue as to the period in respect of which bonus has to be determined was decided by consent. The account years were not uniform for the several factories and the workers as a body were demanding the preceding year's bonus when they got the dispute referred for adjudication in June 1947. It appears that four of the factories—the Ananda Vilas, the Kerala Textiles, the Commonwealth and the Standard—paid of their own accord three months' basic wages as the bonus in question, while another factory, namely, the Neo Textiles paid a bonus equivalent to three months' basic wages plus cent per cent dearness allowance. The Owners' Association resolved to give a bonus of one month's basic wages, but the workers' demand is for three months' earnings equivalent to six months' basic wages.

27. Only 11 of the factories have filed their profit and loss accounts, and these are summarized in Appendix III. I have outlined the positions taken by both sides on the question of bonus in paragraph 2 above. It is not disputed that bonus has to be paid, if at all, out of the profits earned by the factories during the year in question. Broadly speaking, the workers' representatives contend that in some of the smaller factories owned by individuals and

partnerships the expenditure side of the accounts has been inflated and the true profits are larger than those shown in the accounts; and that in almost all the accounts, the excessive overhead expenses shown are not consistent with good management and the workers ought not to be prejudiced by reason of the managements incurring inflated overhead expenses for their own ends. On the other hand, it is urged for the managements that even the profits shown in the accounts do not disclose the true weakness of the financial positions of the factories; that in several instances provision has not been made for items such as income-tax, return on investment, remuneration for management, depreciation, reserve fund, etc., that factories started during the war were over-capitalised as they equipped themselves by paying inflated prices and have to provide for the enormous depreciation of their capital when prices become normal; and that in their own interest the managements would never have incurred unnecessary overhead expenses.

28. No doubt the factories which came into existence after 1942 must have been over-capitalised, but they must have also earned enormous profits and recouped part of their capital during the prosperous years preceding that under consideration. I am of opinion that the fact of their over-capitalisation need not now be taken into account. I take note of the fact that all the factories have probably to face a coming period of depression, when controls are lifted and handloom goods would have to compete with mill products. But that was all the more reason why they should have commenced restricting their overhead and miscellaneous expenses. In the light of the events to which I shall refer presently, it is possible to determine the extent to which such expenses ought to have been restricted and the profits which ought to have accrued by proper management.

29. The Handloom Cloth (Price Control) Order, 1946, came into force in August 1946 and confined the cost of production to the cost of purchasing and processing the yarn and of weaving and processing the cloth. Over this cost of production the producer was allowed a margin of 15 per cent to cover all his expenses and profit before the cloth reached the consumer. But the order did not in terms prevent the inclusion of overhead expenses in the cost of production and the handloom factories at Calicut were adding varying amounts to their, other expenses of production, under the heading of overhead charges. Then came the Handloom Cloth (Control) Order, 1947, which increased the producer's margin to a maximum of 18¾ per cent. The Provincial Textile Commissioner proposed that an allowance of 10 per cent on the cost of production should be conceded under overheads, for handloom factories which have 10 looms and more, but the Provincial Handloom Wages Board negatived the proposal. Evidently the view which prevailed was that the margin of 18¾ per cent should cover all the expenses and a fair profit to the producer. It was not suggested before me that

any of the managements protested against the margin of 18¾ per cent as being inadequate. However, as I am now reopening past accounts, I shall not go to the length of saying that overhead expenses in excess of 18¾ per cent is not consistent with good management. Further, I consider that some allowance for overhead expenses is essential for reaching distant markets and for preserving the virility of the industry noted by the Fact Finding Committee. Missionaries who introduced the fly shuttle also created the factory now managed by the Commonwealth Trust, and the largest amount of overhead expenses is incurred by this factory. But as regards the quantum of allowance for overhead expenses, while the Calicut Owners' Association wanted 25 per cent, the Cannanore Owners' Association which speaks for a far larger number of factories wanted only 12½ per cent. I think that 18¾ per cent plus 12½ per cent is a reasonable allowance for all the expenses and the normal profits of the producer.

30. Column 9 of Appendix III shows that out of the 11 factories who have furnished their accounts, all except the Lotus Industrials ought to have made large extra profits. Evidently the factories were able to sell their goods at exorbitant prices, owing to the weakness of the consumers' position. Even this reason is sufficient to support a conclusion that the managements should share a part of the extra profits with the workers. In addition, there is the fact that the wages of the workers have not been increased although the cost of living rose during the interval before the end of the account year. In my opinion, the workers have established a case for the payment of bonus by all the factories except the Lotus Industrials.

31. In determining the quantum of the bonus, it has to be borne in mind that the managements cannot be in a position to get back any portion of the expenses which they might have incurred over and above 31¼ per cent. Only the actual net profits shown in column 8, can be regarded as the fund out of which unpaid bonus can be disbursed. Owing to the inadequate supply of yarn, most of the managements are not able to realize their full profits, for no fault of their own. Further it appears that in some of the factories such as Messrs. K. P. Neelambi and Sons, workers used to be paid *ex gratia* wages although they did not have sufficient work. Taking all the circumstances into consideration, I have come to the conclusion that except in the Lotus Industrials, the workers in the other factories should be paid three months' basic wages as bonus for the year in question, after deducting the bonus already paid to them.

32. The majority of factories have not submitted their accounts before me. I must make provision for the possibility of their case being similar to that of the Lotus Industrials. The bonus of three months' basic wages should be limited to half the amount calculated in column 9 of Appendix III, and further should be available out of the year's net profits. If any factory not mentioned in Appendix

III shows to the satisfaction of the Government or such officer as the Government may nominate in this behalf, within one month from the date of the publication of this award, that it cannot be required to pay the bonus in accordance with what I have said above the Government or the said officer may reduce or remit the bonus to be paid.

33. The bonus payable for the year will be subject to the following conditions :—

(1) Workers who have been employed for less than 75 working days and more than 32 working days shall be granted a bonus to the extent of 50 per cent, and workers who have been employed for 32 working days or less shall not be paid any bonus.

(2) Any worker who has been dismissed for misconduct in the year shall not be entitled to any bonus even if he has worked for more than 32 days.

(3) Bonus shall be calculated on the basic wages for the year in question.

(4) In the case of women who have been on maternity leave during the period referred to, the actual maternity allowance drawn by them shall be included in their earnings for the purpose of calculating the bonus payable.

(5) Bonus due as stated above shall be paid to the workers in one lump sum before the 31st March 1948.

(6) Persons who are eligible for bonus but who are not in service shall be paid the same, provided claims in writing are submitted to the managements concerned before the 15th March 1948 after which date their application for bonus will not be entertained.

(7) Persons who have already received the bonus due to them for the year in question shall be paid only the balance if any due to them under this award.

These conditions follow the lines suggested by the workers' representatives, to which no tangible objection has been urged by the managements.

34. *Issue 5.*—This issue concerns only the management of Messrs. K. P. Neelambi and Sons Handloom Factory and the necessary facts are briefly as follows. It appears that in this factory dearness allowance was being paid at only 87½ per cent even after 15th May 1946, instead of at 100 per cent fixed by the Association. About the middle of October 1946, the Union of the workers of the factory threatened a strike unless their dearness allowance was increased to 100 per cent with effect from May 1946. They formulated also other demands such as increases in the basic wages, and actually went on strike on 1st November 1946. An agreement was reached on 20th November 1946, when the management consented to pay 100 per cent dearness allowance with effect from 15th August 1946, to adopt the association's schedule of basic wages wherever

they were higher than the rates obtaining in the factory, and also to grant certain other demands of the workers. This agreement between the management and the union has been marked as Exhibit P-1. On 21st November 1946, the strike was called off and the strikers resumed work. Within a few days, the workers were dissatisfied on the ground that some of them had been victimized, and commenced a second strike which ended on 19th December 1946. The exact date when the second strike began is in controversy. But the question whether it was 26th November 1946 as alleged by the management or 28th November 1946 as alleged by the workers is immaterial.

35. The complaint of the workers is that, owing to the activities of some of them in connexion with the first strike, the management have been giving them trouble in various ways. They have levelled several charges from time to time, but it is sufficient to consider only those which were pressed at the time of the argument. Four witnesses have been examined on behalf of the workers: P.W. 1, Kandakutti, an employee who is the Assistant Secretary of the Union, P.W. 2, Sankaunni, a worker in the dyeing section, P.W. 3, V. Raman, formerly the office peon, and P.W. 4, Kumaran, a non-worker who is a member of the working committee of the union. The management have examined two workers: R.W.1, T. Raman, and R.W. 2, Velukutti, and also relied upon their account books. I have carefully considered the evidence and have come to the conclusion that none of the charges have been substantiated.

36. *Charge* 1.—In the dyeing section, 10 persons used to be employed previously irrespective of whether there was sufficient yarn or not. Before the agreement (Exhibit P-1), the factory had been engaging 5 men, but on 21st November 1946 only 2 were employed, and it was only after considerable difficulty and persuasion that 5 persons were taken. Subsequently, no one was employed, on a number of days owing to vindictiveness.

Explanation of the management.—Before the agreement, ten persons used to be employed when sufficient yarn was available. Even on days when there was no yarn nor work, 5 out of the 10 were given wages in turns on alternate days purely *ex gratia*. The management were not bound to continue such a concession, especially as the wages were increased by As. 4 under the agreement Exhibit P-1. It was for this reason that clause 12 of Exhibit P-1 expressly provided that work was to be given only according to the availability of yarn. Five men were employed both on 21st November 1946 and 22nd November 1946 and 10 men from 23rd November 1946 to 25th November 1946 after which there was the second strike. Ten men were employed every day from 19th December 1946 till 6th February 1947. Subsequently, the receipts of yarn were delayed or interrupted, and so the men could not be employed on every day.

Reasons for the decision.—The management have filed a statement showing that their receipts of yarn have steadily decreased for the past four years :—

	LB.
1944	78,550
1945	69,330
1946	35,615
1947 (till the end of October).. ..	27,785

The possibility of manufacturing their dyed fabrics also depends on their getting suitable counts of yarn. They make comparatively more profits on dyed fabrics, and it is impossible to believe that they would have wantonly curtailed work in their dyeing section.

37. *Charge* 2.—The workers in the dyeing section were compelled to work more than the usual 8 hours per day on 21st November 1946 and 22nd November 1946 without being paid extra wages.

Explanation of the management.—There was no compulsion. Workers are employed for an extra half to one hour on these dates and were paid double the rates for overtime as usual. In the process of dyeing, sometimes the work cannot be left over for the next day when a particular stage is reached, without damaging the yarn. In these circumstances, overtime work is not unusual in that department.

Reasons for the decision.—The management's explanation is supported by their letter, Exhibit P-3, dated 27th November 1946, to the Union President's letter, Exhibit P-2, of the same date.

38. *Charge* 3.—Carpener Gopalan was dismissed on 26th November 1946 without any reason or notice.

Explanation of the management.—Carpenter Gopalan had been appointed purely on a temporary basis, when two or three permanent hands went on leave. One of the permanent hands rejoined duty, and consequently Gopalan's services were no longer required. There was no question of dismissal or notice having to be given.

Reasons for the decision.—The same explanation was given by the management in their letter, Exhibit P-3, dated 27th November 1946, and in the agreement, Exhibit P-4, dated 16th December 1946, made before the second strike was called off. There are no reasons to doubt the truth of the explanation.

39. *Charge* 4.—One V. T. Chovikutty was not re-entertained on 21st November 1946 as per Exhibit P-1. He was re-entertained only on 25th November 1946 and was given a new job where he could earn less wages. After some days, he was sent back to his original job, but was not given the increase of two annas stipulated in Exhibit P-1 for similar workers.

Explanation of the management.—V. T. Chovikutty had been working in the packing department and had been discharged some

time before the strike for want of sufficient work in that department. However, as clause 18 of Exhibit P-1 provided that he should be taken back, the management were willing to re-employ him. He came back for duty for the first time only on 19th December 1946 and was re-employed in the packing department without any reduction or loss in wages.

Reasons for the decision.—The explanation of the management is borne out by P.W. 1's answers in cross-examination.

40. *Charge* 5.—Nalli carrier Kumaran was sent away without any reason.

Examination of the management.—Kumaran was a new hand. He was employed only for 1½ months before the first strike and was in fact learning work during the period. He was not re-employed for the simple reason that he did not turn up again for work either on 21st November 1946 or 19th December 1946 or on any other day.

Reasons for the decision.—Kumaran himself has not come forward to support the complaint made on his behalf. P.W. 1's evidence on the point is vague. The management's explanation that he has not turned up for work must be true.

41. *Charge* 6.—Women are forced to rewind bobbins contrary to the agreement of 20th November 1946.

Explanation of the management.—New hands have been appointed for re-winding bobbins and this has been stated in clause 11 of Exhibit P-1.

Reasons for the decision.—No woman worker has come forward with such a complaint, either into the witness-box or when I visited the factory on 18th October 1947. It is not likely that women would have been required to do the work even after new hands were specially appointed for the purpose.

42. *Charge* 7.—K. Andikutti working in the stores for the last 5 years has been transferred on 28th February 1947 to the packing section. This work is much heavier and there is no difference in pay. Nevertheless, he is required to close all the doors and windows of the factory, which was part of his work when he was in the stores department.

Explanation of the management.—Andikutty was entertained as a nalli carrier about the year 1942, and was working in that capacity for about two years. Subsequently, he was working in the packing department and had duties off and on in the stores section. It is absolutely incorrect to say that he was working in the stores department for the last 5 years. He is even now in the packing department, and no question of his having been transferred arises. The closing of the doors and windows is part of the duty allotted to him and involves only a few minutes' work.

Reasons for the decision.—P.W. 1's evidence is unconvincing and S. Andikutti himself has not come forward with a grievance.

43. *Charge* 8.—P.W. 3, V. Raman, was employed as an office peon on Re. 0–9–6 a day until the first strike. But after the strike was called off, he was told that an office peon was not needed and that he would be given a job in some other department.

Explanation of the management.—It is true that P.W. 3 was working as an office peon. But, considering the present quantity of work in the office on account of reduced production there is no need for a full-time office peon. Further, there were petty thefts from the office room and there was strong suspicion against P.W. 3. In clause 3 of the agreement, Exhibit P-4, dated 16th December 1946, the Union President's condition for calling off the strike was " It is enough that Raman is given work in any other department without reduction in wages." Accordingly, P.W. 3 was given work as warp joiner, without any reduction in wages.

Reasons for the decision.—P.W. 3 admits that although he was transferred to the warp-joining department, he was given the same wage of Re. 0–9–6 a day. He further admits that no office peon is employed after November 1946. It is not proper to interfere with the management's discretion to decide whether an office peon is necessary or not, and whether a particular individual is suitable for that job.

44. P.W. 3 has also given evidence that acquittances are obtained in the factory for 4 non-existent persons, and that he was made to sign for one such person. The management have adduced evidence rebutting this allegation. The charge is one of keeping false accounts and not of victimization. It is not necessary for me to decide it in this award.

45. I find on this issue that there was no victimization of the workers after the agreement of 20th November 1946.

46. Before leaving the matter, I wish to record a tribute to the assistance rendered by the late Sri M. B. K. Menon, who was appearing before me to represent the workers and who died on 24th December 1947. Owing to the intrinsic complexity of the subject of handloom manufacture, very little progress could be achieved in the case until he appeared and analysed the nature of the workers' claims and grievances. The managements were at first inclined to the view that the workers had no real grievance, and that their leaders were putting up a fight merely for the exhilaration of giving battle. I am glad to say that all the arguments advanced before me by Sri M. B. K. Menon proceeded on the footing of smooth and efficient working of the industry. In the difficult times ahead for the industry, it may be useful to recall the conclusions of the Fact Finding Committee that the handloom can never successfully compete with the power loom in point of cheapness of the product. The virility and prosperity of the industry must depend on the superiority of its products and its specialized patterns and markets. The controls have helped the industry by restricting mill

competition, but have hit the industry by restricting the supply of yarn and the export of the products. Even after the removal of controls, we may fairly expect the industry to prosper if it is properly aligned as regards production and marketing. The prosperity would naturally depend on the overall efficiency of the industry, and on the worker willingly taking his due share of the burden, and I am confident that the workers will follow the lead given by Sri M. B. K. Menon before me by making it possible for the factories to function smoothly and efficiently.

APPENDIX I.

List of Handloom Factories at Calicut.

Serial number and name of factory.	Year of establishment.	Number of looms.	Number of workmen.
1 Ananda Vilas Weaving	1927	50	59
2 Azhchavattam Textiles	1943	9	14
3 Bhama Textiles	1944	33	43
4 B mplo Textiles	1944	5	13
5 Calicut Textiles	1944	15	15
6 Coylon House Textiles	1941	'5	57
7 Commonwealth Trust	1859	350	774
8 Desadandu Weaving Establishment	1938	5	6
9 Devi Vilas Weaving Factory	1929	11	19
10 Imperial Textiles Industries	1943	85	112
11 Kellai Textile	1944	25	28
12 Kadiji Textiles	1943	10	42
13 Kerala Textiles	1939	74	198
14 Lotus Industrials	1943	15	21
15 Malabar Weaving Establishment	1937	51	52
16 Modern Textiles	1943	25	37
17 National Weaving Establishment	1943	4	4
18 National Textile	1942	20	32
19 Neo Textiles	1939	16	24
20 K. P. Ve lambi and Sons	19 3	157	177
21 Palm Grove Fabrics	1943	25	32
22 Paramount Dyeing, Printing and Weaving Establishment.	1943	25	37
23 Phoni Textile Industries	1944	12	12
24 Prabhat Textiles	1944	40	74
25 Premanath Textiles	1944	9	13
26 P.S. Weaving Works	1896	4	8
27 St. Vincent's Industrials	1925	85	154
28 Sivaraj & Co.	1944	15	15
29 Souri Rajan Textiles	1943	7	9
30 Sanjeevi Textiles	1943	13	14
31 Sivapuri Textiles	1944	18	23
32 Sree Venkateswar Weaving Establishment.	1943	25	27
33 Standard Cotton & Silk Weaving Co.	1919	325	750
34 Taj Textiles..	1944	56	56
35 T.P.K. & Co.	1944	5	7
36 West Coast Weaving Factory	1931	25	37
		1,694	2,995

APPENDIX II.

Schedule of wages in Handloom Weaving Factories approved by the Calicut Handloom Factory Owners' Association.

(To take effect from 1st April 1945).

	RS. A. P.		RS. A. P.
1 Winding for warp big nally	..		0 0 7 per hank.
Do. weft small nally	..		0 0 10 ,,
Twisting big bobbins	.		0 0 8 ,
2 Warping 48″ breadth (Honey comb and plain 2/20's and other yarn)	..		0 12 0 per 100 yards.
Warping 54″ breadth (Honey comb and plain 2/20's and other yarn)	..		0 12 6 ,,
Warping 60″ breadth (Honey comb and plain 2/20's and other yarn)	..		0 13 0 ,,
Warping 72″ breadth (Honey comb and plain 2/20's and other yarn)	..		0 14 0 ,,
Warping 90″ breadth (Honey comb and plain 2/20's and other yarn)	..		0 15 0 ,,
3 Weaving:—			
(a) Running length –			
Honey comb and plain 48″ ..	0 2 3	to	0 2 9 per yard.
For every 12″ extra width ..	..		0 0 6 extra part thereof.
(b) Bead spreads—			
Honey comb and plain 48 × 90.	0 6 0	to	0 7 6 each piece.
Do. 54 × 90 ..	0 7 0	to	0 8 6 ,,
Do. 60 × 90 ..	0 8 0	to	0 9 6 ,,
Do. 72 × 100 ..	0 10 0	to	0 11 6 ,,
(c) Table cloth—			
Pattern V range 48 × 48 ..	0 3 0	to	0 3 9 each.
Honey comb 36 × 36 ..	0 2 3	to	0 2 9 ,,
(d) Breakfast cloth—			
36 × 36	0 2 0	to	0 3 3 each
51 × 51	0 4 6	to	0 5 6 ,,
(e) Teapoy covers –			
48 × 48	0 3 0	to	0 3 9 each.
36 × 54	0 2 3	to	0 3 0 ,,
36 × 60	0 2 6	to	0 3 3 ,,
(f) Napkins—B.F. quality—			
18 × 18	0 0 8	to	0 0 11 each
14 × 14	0 0 10	to	0 1 1 a pair.
16 × 16	0 0 9	to	0 1 3 ,,
(g) Tray cloth—			
11 × 18	0 1 0	to	0 1 2 a pair.
16 × 22	0 1 3	to	0 1 5 ,,
(h) Runners—			
14 × 36	0 1 3	to	0 1 5 a pair.
(i) Huck-buck towels—			
18 × 28	0 1 0 each.		
18 × 36	0 1 4 ,,		
24 × 36	0 1 8 ,,		
27 × 45	0 1 10 ,,		
36 × 54	0 2 3 ,,		
36 × 72	0 3 0 ,,		

	Rs. A. P.		Rs. A. P.	
(*j*) Honey comb towels—				
18 × 28	0 1 0	to	0 1 2	each.
24 × 36	0 1 4	to	0 1 8	„
18 × 36	0 1 2	to	0 1 4	„
24 × 45	0 1 9	to	0 1 10	„
36 × 54	0 2 7	to	0 3 0	„
36 × 72	0 3 6	to	0 4 0	„
27 × 36	0 1 4	to	0 1 8	„
(*k*) Honey comb running length— 27″	0 1 3	to	0 1 7	each.
(*l*) Face cloth honey comb— 12 × 12	0 0 9	to	0 1 0	per pair.
(*m*) Kitchen towels—				
22 × 22	0 0 9 each.			
24 × 24	0 0 10 „			
27 × 27	0 0 11 „			
Running length 22′ width ..	0 1 6 per yard.			
(*n*) Turkish towels—	Plain and checked.			
18 × 30	0 1 4 each.			
24 × 36	0 2 7 „			
36 × 54	0 5 3 „			
36 × 72	0 7 0 „			
24 × 42	0 3 0 „			
24 × 45	0 3 3 „			
36 × 60	0 5 9 „			
Bath mats 18 × 28	..		0 2 10	each.
Turkish 26 × 36	..		0 3 0	„
Running length—				
27″	..		0 4 6	per yard.
36″	..		0 6 0	„
(*o*) Shirtings—				
27″ twisted yarn warp	0 1 3	to	0 2 0	per yard.
32″ do.	0 2 1	to	0 2 6	„
36″ do.	0 2 6	to	0 3 3	„
(*p*) Dress materials—				
Twisted yarn warp 32″ ..	0 2 0	to	0 2 9	per yard.
Do. 36″ ..	0 2 6	to	0 3 6	„
(*q*) Casement cloth—	2/20s 2/42s		2/30s	
36″	0 1 9	to	0 2 0	per yard.
48″	0 2 3	to	0 2 8	„
60″	0 2 9	to	0 3 4	„
72″	0 3 3	to	0 3 10	„
90″	0 4 0	to	0 5 0	„
(*r*) Coatings—				
Shirtings 27″	0 1 8	to	0 2 9	per yard.
Single yarn warps 27/32″ ..	0 1 8	to	0 1 10	„
Net curtains—				
2/20s 36″	0 1 6	to	0 2 0	per yard.
2/20s 48″	0 2 0	to	0 2 6	„
Sail cloth—				
18″	0 0 9	to	0 1 6	per yard.
Turkish towel warping 24″—130 yards	..		0 11 0	„

Dearness allowance increased to 100 per cent with effect from 15th May 1946.

APPENDIX III.

Name of factory.	Account year.	Cost of materials.	Wages.	Bonus paid for the year.	Overhead and miscellaneous charges as per accounts.	31¼ per cent of columns (2) and (3).	Receipt from sales less sales tax.	Net profit as per accounts.	Excess of column 7 over columns (2), (3) and (6).	Remarks.
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
		RS. A. P.	RS. A. P.	RS. A. P.	RS. A. P.	RS. A. P.	RS. A. P.	RS. A. P.	RS. A. P.	
Bhama Textiles ..	31st December 1946 ..	17,136 8 0	10,846 12 6	495 8 0	19,961 1 9	8,744 12 5	59,156 1 9	10,716 3 6	22,428 0 10	
Calicut Textiles ..	1946–47	14,895 4 1	5,581 14 6	Not shown separately.	6,637 0 8	6,399 0 0	29,010 12 9	1,946 9 6	2,184 10 2	*
Commonwealth Trust.	30th September 1946.	6,00,770 1 10	3,40,285 4 8	42,377 4 1	2,68,926 14 2	2,94,079 13 1	13,91,976 1 2	1,39,616 8 5	1,56,840 13 7	†
Kallai Textiles ..	31st July 1946 ..	25,309 11 1	20,931 1 7	Not given separately.	29,614 5 9	14,450 3 11	80,304 5 3	4,449 2 10	19,613 4 8	‡
Lotus Industrials ..	31st March 1947 ..	15,378 0 2	11,771 2 3	Not shown separately.	5,415 2 11	8,484 1 7	34,259 2 3	1,694 12 11	1,374 1 9	§
Malabar Weaving Establishment.	Do. ..	20,557 0 4	20,903 6 1	1,421 13 9	14,866 7 1	12,956 5 10	81,251 6 6	23,502 11 3	26,834 10 3	
K. P. Neelambi & Sons.	Do. ..	78,362 7 7	63,594 8 6	11,939 12 0	43,270 12 8	44,361 8 11	2,21,671 12 0	24,504 3 3	35,353 3 0	
Palam Grove Fabrics.	1946	11,518 2 11	7,144 3 6	Not given separately.	8,173 2 11	5,832 0 6	33,070 11 2	6,235 1 10	8,576 4 3	
Standard Cotton and Silk Weaving Company.	31st March 1947 ..	5,59,632 6 0	4,06,788 15 9	Do.	54,573 7 4	3,02,006 10 3	13,59,878 7 3	3,38,833 10 2	91,450 7 3	
Taj Textiles	31st December 1946..	39,624 8 2	21,807 6 3	Do.	28,982 12 7	19,197 7 4	1,01,790 2 1	11,375 7 1	21,160 12 4	
St. Vincints Industrials.	31st August 1946 ..	48,140 0 8	30,197 10 9	Do.	19,505 10 7	24,480 7 6	1,55,220 8 10	57,287 2 10	51,402 5 11	

* The cost of material is disproportionate to the wages and there is no explanation for the disparity.

† Column 5 includes Rs. 93,498–14–0 for Head Office Control Charges.

‡ Cost of materials shown in the firm's accounts includes purchase of finished goods. This item has been excluded in the present calculations. The over-head charges shown in the firm's account include (1) salary Rs. 4,961–6–0 although there are only three clerks, and (2) Commission Rs. 12,056. In the previous year it was found by Income-tax Department that salary Rs. 3,748-12-0 included Rs 2,000. Salaries to partners and the entire commission of Rs. 6,930 was paid to the partners and the net income of the firm was assessed as Rs. 19,470 as against Rs. 7,985 shown in the Company's account.

§ Cost of materials shown in the firm's account includes "purchase of cloth". This item and the profit from the sale thereof have been excluded from the calculations.

Order—Ms. No. 564, Development, dated 6th February 1948.

Whereas the award of the Industrial Tribunal (Mr. N. D. Krishna Rao, I.C.S., District and Sessions Judge, South Malabar, Calicut) constituted under G.O. No. 4734, Development, dated 6th October 1947 to adjudicate in the industrial dispute then existing between the workers and management of the handloom factories in Calicut, has been received.

2. Now, therefore in exercise of the powers conferred by section 15 (2), read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XVI of 1947, His Excellency the Governor of Madras hereby declares that the said award shall be binding on the managements of handloom factories in Calicut and the workers employed therein and directs that the said award shall come into operation on the 6th February 1948 and shall remain in operation for a period of one year.

3. The Commissioner of Labour is requested to send a copy of this order to the Managements and Workers' Unions concerned.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

IX

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

SRI C. R. KRISHNA RAO.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE COIMBATORE CEMENT WORKS, MADUKKARAI.

and

K. R. RAMASWAMI, AN EMPLOYEE.

RAO SAHIB T. T. RATNASABAPATHY PILLAI, Advocate—*for the management.*

Sri K. R. RAMASWAMI—*Party in person.*

Subject—Whether K. R. Ramaswami was victimized and whether reinstatement should be ordered.—Held that Ramaswami was not discharged for inefficiency. Even if he was inefficient as an apprentice, he should have been reverted as unskilled worker from whence he was promoted and not altogether discharged from service.

Held further that the termination of Ramaswami's services were wrongful but not a case of victimization.

Awarded as compensation from 18th August 1947 the average monthly earning as an unskilled worker.

Ordered reinstatement of worker in his old job.

G.O. Ms. No. 670, Development, dated 13th February 1948.

[Labour—Disputes—Dispute between the workers and management of the Coimbatore Cement Works, Madukkarai—Recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 5216, Development, dated 10th November 1947.

(2)

Letter from the Industrial Tribunal, Coimbatore, dated 26th January 1948, No. Nil.

[G.O. Ms. No. 5216, Development dated the 10th November 1947—Dispute between the workers and the management of the Coimbatore Cement Works, Madukkarai—Submission of award.]

I have the honour to submit my award herewith in the dispute between the workers and the management of the Coimbatore Cement Works, Madukkarai, which was referred to me for decision.

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

PRESENT :

SRI C. R. KRISHNA RAO.

INDUSTRIAL DISPUTE NO. 6 OF 1947.

[In the matter of the industrial dispute between the workers and the management of the Coimbatore Cement Works, Madukkarai.]

This dispute having come up for final enquiry on the 23rd January 1948 at Coimbatore in the presence of Rao Sahib T. T. Rathnasabapathi Pillai, advocate for the management and Sri K. R. Ramaswami in person and having stood over for consideration till this day, the 26th day of January 1948, the Tribunal made the following Award :—

AWARD.

The dispute between the workers and the management of the Coimbatore Cement Works, Madukkarai, was referred to me for adjudication in G.O. Ms. No. 5216, Development, dated the 10th November 1947.

2. I issued notices to the parties and required them to file their written statements.

The simple question for decision in this case is whether the worker Sri K. R. Ramaswami is entitled to be reinstated or not. The facts are not in dispute. The worker joined the company as an unskilled coolie on a daily wage of 6 annas in 1942. He knows a little English, having read up to IV Form. He was the Secretary of the Cement Workers' Union at Madukkarai. As he knew English, and as he appeared to be an intelligent worker, the company wanted to make him a skilled artizan. He was promoted as a lathe boy in 1944 on a wage of 10 annas. In March 1947, the Chief Engineer of the Company held a test for all the apprentices. The lathe boys by now came to be known as apprentice turners. Very few did well in the test and Ramaswami was one of the miserable failures. He secured only 34 marks. But a few got even less and one only 11 marks.

3. On 21st May 1947, while Ramaswami was working in the factory he was arrested by the police under the Public Safety Act and taken to Vellore. He was released on 13th August and he reported himself to duty on the 17th or 18th August and he was told that he had been discharged. He got the Union Secretary to report the matter to the Labour Officers. As the management were unwilling to take him back, Government have referred the matter to me for adjudication.

4. The following issues were framed:—

Issue 1.—*Was Sri K. R. Ramaswami an apprentice in the factory in March* 1947?

Issue 2.—*Did he fail in the Trade test held in March* 1947?

Issue 3.—*On account of his failure, or even otherwise, was the company entitled to terminate his apprenticeship or his services?*

Issue 4.—*In case Sri K. R. Ramaswami is to be reinstated, what compensation, if any has to be paid to him from 15th August* 1947?

Issue 5.—*Is the termination of his service a case of victimization?*

5. The main contentions of the company are—

(1) that the discharge of Ramaswami was not a case of victimization;

(2) that the company was entitled to discharge an apprentice without notice and without compensation under the standing orders; and

(3) that Ramaswami proved himself so inefficient that the company could and did discharge him for inefficiency.

6. The learned Counsel for the Company contended that the worker himself had not alleged victimization in Exhibit I, a copy of a letter addressed to the Minister of Labour, or in his written

statement, nor had he made any attempt to prove it. Victimization is the taking of some action prejudicial to the worker on some pretext other than the real reason. It is, therefore, largely a matter of inference from surrounding circumstances, and not one always capable of direct proof.

7. The Company contend that they have terminated Ramaswami's apprenticeship, because of his proved inefficiency. The question arises when they did it and who did it. Mr. Talcherkar, the Chief Engineer of the Company who held the test in March 1947 says "I did not recommend that Ramaswami should be discharged immediately. As he was a leader of the workers we did not want to victimize him and create trouble for ourselves as we had just then got out a strike. I expected him to improve, if he was given another chance and so also we kept him on. He did not improve. A week or ten days before Ramaswami's arrest, I found out that he could not improve. When I was thinking of terminating his service he was arrested. We have not intimated to Ramaswami that his apprenticeship was terminated on account of his inefficiency. When he presented himself after his release, for work, I orally told him that he was not wanted. It was primarily for inefficiency and secondarily because of his absence without leave. I did not refuse to take him back because of his being the leader of the workers and was taking part in strikes."

8. The Talcherkar did not terminate Ramaswami's apprenticeship before 21st May 1947 but was only thinking of it. He was certainly not told by any one that he was terminated for inefficiency. Sometime about the middle of June 1947, Mr. Srinivasan (P.W. 3), the Welfare Officer of the Company noted on Ramaswami's history card that he was "retrenched due to continuous absence." There is no mention of inefficiency. One of the other apprentices, not even those who got marks as low as 23 and 11 were discharged. It is said that all showed promise of improvement, but only Ramaswami did not improve. However this may be, the evidence does not make out that on any particular day, any particular officer terminated Ramaswami's apprenticeship on the ground of inefficiency. On the other hand, Exhibit A clearly states he was retrenched for continuous absence. The Company does not rest their case now on this ground. They realize that absence under duress should not be punished. As they are unwilling to take him back, they have to fall back on his inefficiency.

9. The learned Counsel for the Company contended that they could terminate Ramaswami's apprenticeship, under the standing orders, without notice, without compensation and without assigning any reason whatever. This may be the correct legal position, but it would be a sad state of affairs if every morning an apprentice reported himself to duty, he ran the risk of being told that he was not wanted. Ramaswami's case can be easily distinguished. He did not join the factory as an apprentice, but as an unskilled worker

in 1942. Two years later he was taken as a lathe boy. If for want of aptitude or application he became a failure, then he is entitled to ask to be sent back to the moulding department from which he was promoted. If a clerk is promoted as a Magistrate and his magisterial work is found unsatisfactory, he is not dismissed but reverted. Ramaswami may not be fit for skilled work. But that is no reason for denying to him even an unskilled job, for which he has not been found unfit.

10. From the foregoing it is clear that Ramaswami was not discharged for inefficiency, that he could not be retrenched due to continuous absence and so it was wrongful to refuse to take him back. Though he is entitled to be taken back, he is not entitled to be reinstated as apprentice-turner. Mr. Talcherkar's considered view is that Ramaswami is incapable of improvement. Moreover he has been away from the factory for the past eight months and he may have to begin at the beginning all over again. I do not think it is in the interest of the Company or of Ramaswami that he should be reinstated as a apprentice-turner. But certainly on the proved facts, he is entitled to be taken back in the moulding department or in some other department as an unskilled worker.

11. I record my findings on the issues as follows :—

Issues 1 *and* 2.—I find these in the affirmative.

Issue 3.—The Company is entitled to terminate his apprenticeship on account of his failure, but not his service. He must be restored to his old job in the moulding department, or given some other similar unskilled job.

Issue 5.—The termination is wrongful but not a case of victimization.

Issue 4.—Ramaswami is entitled to be paid as compensation from 18th August 1947 the average monthly earnings of an unskilled worker in the moulding department.

12. In the result I decide—

(1) that Sri K. R. Ramaswami must report himself to duty before the Welfare Officer, within one week after the publication of this award,

(2) that the Company should restore him to his old job in the moulding department and if there is no vacancy there they should give some similar alternative unskilled job,

(3) that if Ramaswami does not report himself to duty within the week he will lose all claim for re-employment, and

(4) that the Company should pay compensation to Ramaswami—

(*a*) from 18th August 1947 up to the date of the publication of this award, and that the rate of compensation should be the

average earnings of an unskilled worker in the moulding department, and

(b) that the average earnings shall be calculated as follows: For any month, say September 1947, the wages and dearness allowance of all the unskilled workers in the moulding department shall be totalled and the total divided by the number of workers. The result will be taken as the average earnings for that month. Bonus shall not be taken into account.

Order—Ms. No. 670, Development, dated 13th February 1948.

Whereas the award of the Industrial Tribunal, Coimbatore, in respect of the dispute between the workers and management of the Coimbatore Cement Works, Madukkarai, consequent on the dismissal of a worker named K. R Ramaswami, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Coimbatore Cement Works, Madakkarai, and the workers employed therein.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

X

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

SRI M. VENKATARAMAYYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE ABRAHAM BUS TRANSPORT, LIMITED, POONAMALLEE

and

THE WORKERS.

Sri R. RAJESWARA RAO, Advocate—*for the Company.*

Sri M. SITARAM NAIDU, General Secretary of the Union—*for the workers.*

Award in terms of the memorandum of compromise.

G.O. Ms. No. 814, Development, dated 19th February 1948.

[Labour—Disputes—Dispute between the workers and the management of the Abraham Bus Transport, Limited—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 182, Development, dated 12th January 1948.

G.O. No. 183, Development, dated 12th January 1948.

(2)

Letter from the Industrial Tribunal, Madras, dated 4th February 1948, No. I.D. 1/48.

[Labour—Industrial dispute—Dispute between the workers and management of the Abraham Bus Transport, Limited—Award—Submission of. *Reference*—G.O. Ms. No 182, Development, dated 12th January 1948.]

The dispute between the management and workers of the Abraham Bus Transport, Limited, has been amicably settled and an award in pursuance of the compromise filed is submitted herewith.

I was asked to recommend that the award may be made binding on the parties for a period of one year. Government may consider this request

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT

SRI M. VENKATARAMAYYA, B.A., B.L

[In the matter of the Industrial Tribunals Act, 1947 and in the matter of the Industrial Dispute between the workers and management of the Abraham Bus Transport, Limited, Poonamallee.]

G.O. Ms. No. 182, Development, dated 12th January 1948.

The above dispute was referred to me on the 12th January 1948 for adjudication. Both parties have filed a memorandum of compromise embodying the terms of settlement arrived at and requested that the award may be passed in terms thereof.

A copy of the memorandum is appended and an award is passed in terms of that memorandum.

Dated this 4th day of February 1948.

APPENDIX.

Copy of the memorandum.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

[In the matter of the Industrial Dispute between the workers of the Abraham Bus Transport, Limited and the management, Abraham Bus Transport, Limited.]

[*Reference.*—G.O. Ms. No. 182, dated 12th January 1948.]

Petition for withdrawal of the above adjudication.

The above reference may be treated as a compromise, as the followingg agreement has been arrived at. An award may be passed accordingly :—

1. It is agreed that all workers including the 19 discharged on 12th December 1947 are to be taken back to work and they shall join duty on 1st and 2nd February 1948. They will be employed on the same basis as was in existence three months back.

2. Workers agree to receive payment of wages for the days worked in December 1947 as per the company's calculations.

3. Workers are not entitled to payment of any wages for the period of the present strike.

(Signed) M. Sitharama Naidu,
General Secretary, Madras Motor Drivers' Association.

(Signed) S. S. Joseph Raj,
Managing Director, Abraham Bus Transport, Limited.

(Signed) R. Rejeswara Rao,
Advocate for Management, Abraham Bus Transport, Limited.

Order—Ms. No. 811, Development, dated 19th February 1948.

Whereas the award of the Industrial Tribunal, Madras in respect of the industrial dispute between the workers and the management of the Abraham Bus Transport, Limited, Poonamallee, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2), read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Abraham Bus Transport, Limited, Poonamallee, and the workers employed therein and directs that the said award shall come into operation on the 19th February 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor of Madras)

K. G. MENON,
Secretary to Government.

XI

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS

SRI M. VENKATARAMAYYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE SNUFF COMPANIES IN MADRAS

and

THE WORKERS.

Messrs. JOHN & ROW, Advocates—*for the Madras Snuff Manufacturers' Association.*

Sri K. PRABHU, President of the Union—*for the Madras Snuff Workers' Union.*

Award in terms of the memorandum of compromise.

G.O. Ms. No. 1314, Development, dated 16th March 1948.

[Labour—Disputes—Dispute between the workers and management of Snuff Manufacturing Companies in Madras—Recommendations of the Industrial Tribunal, Madras—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 5674, Development, dated 8th December 1947.

(2)

From the Industrial Tribunal, Madras, dated 11th March 1948, *No. I.D.* 27/47.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

SRI M. VENKATARAMAYYA, B.A., B.L.

[In the matter of the Industrial Disputes Act and in the matter of the Industrial Dispute between the workers and management of Snuff Manufacturing Companies in Madras.]

[*Reference.—G.O. Ms. No.* 5674, *Development, dated* 8th December 1947.]

The parties to the above dispute have reached an agreement and filed a memorandum of compromise. The award is accordingly passed in terms of the memorandum of compromise copy of which is attached hereto.

ENCLOSURE.

Copy of the Memorandum of Compromise.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

[In the matter of the Industrial Dispute between the workers of the Snuff Companies in Madras and the managements of the Snuff Companies, Madras.]

Memorandum of compromise filed by the workers represented by the Madras Snuff Workers' Union and the managements of the Snuff Companies represented by the Madras Snuff Manufacturers' Association, Madras.

1. This memorandum of compromise will be effective and operative from the date of the award.

2. The managements herein agree to increase the wage rate for one viss of tobacco to 10 annas. Each worker shall be given a minimum allotment of three viss of tobacco on every working day. When tobacco is not so allotted, the workers concerned shall be paid one rupee per day for such involuntary unemployment.

3. Workers who have put in a continuous service of three years and more shall be paid a gratuity calculated at the rate of 15 days (wages) for every year of service. The 'wages' for purposes of calculation of gratuity under this clause shall be at a flat rate of Rs. 2 per day. The amount of gratuity due under this clause shall be paid at the time the worker ceases to be in the employ of the company. Payment of gratuity under this clause shall be governed by the rules and regulations relating to payment of gratuity by the Madras Provincial Government in so far as they apply.

4. All workers who have put in a continuous service of one year and above as on 31st December 1947 shall be paid a consolidated sum of Rs 45 as bonus during the current year. Workers who have put in less than one year service as on 31st December 1947 shall be paid proportionately, their period of continuous service bears to 12 months.

5. The managements agree to give six holidays as festival holidays with wages for the year 1948. For each of the festival holidays workers shall be paid a flat wage of Rs. 2.

6. Wages for the workers will hereafter be paid fortnightly if the majority of the workers of the respective companies so agree. No advance shall be asked or given on any account.

7. Workers who have put in 12 months continuous service from the date of appointment shall be made permanent.

8. Mr. Subbarayan shall be paid by Original Shanmugham Snuff Company, a consolidated sum of Rs. 200 only.

9. Other issues are not pressed during the period the award in terms of this compromise is in force.

Dated at Madras, this 10th day of March 1948.

(Signed) P. N. Nataraja Mudaliar,
General Secretary of the Snuff Manufacturers' Association.

(Signed) John and Row,
Counsel for the Madras Snuff Manufacturers' Association.

(Signed) K. Prabhu,
President, the Madras Snuff Workers' Union.

(Signed) S. Subbarayan,
Secretary, the Madras Snuff Workers' Union

(Signed)————,
Madras, 11th March 1948. *Industrial Tribunal, Madras.*

Order—Ms. No. 1314, *Development, dated 16th March* 1948.

Whereas the award of the Industrial Tribunal, Madras in respect of the industrial dispute between the workers and managements of Snuff Manufacturing Companies in Madras has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2), read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) His Excellency the Governor of Madras, hereby declares that the said award shall be binding on the managements of the snuff manufacturing companies in Madras and the workers employed therein and directs that the said award shall come into operation on the 16th day of March 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor of Madras)

K. G. Menon.
Secretary to Government.

XII

BEFORE THE INDUSTRIAL TRIBUNAL, MADURA.

Sri T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

In the Matter of an Industrial Dispute.

Between

THE MANAGEMENTS OF TANNERIES IN SEMBIAM AND MADAVARAM

and

THE WORKERS.

INTERIM AWARD.

Subject—Wages.—**Fixed at As. 8½ per unit of hides in Sembiam and Madavaram area as a tentative rate without prejudice to the final decision.**

Award in terms of the agreement on other matters.

G.O. Ms. No. 1947, Development, dated 19th April 1948.

READ—the following papers :—

(1)

G.O. No. 6028, Development, dated 23rd December 1947.

(2)

Demi-official from Sri Rao Bahadur T. A. Subbiah Pillai, Industrial Tribunal, Madura, to K. G. Menon, Esq., M.A., I.C.S., Joint Secretary to Government, Development Department, dated 23rd March 1948.

[Submission of interim award. *Reference.*—G.O. Ms. No. 6028/47, Development, dated 23rd December 1947.]

Herewith I am enclosing the interim award passed by me with regard to the disputes between the tannery workers in Sembiam and Madhavaram area and tanneries in that area for the consideration of the Government.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

INDUSTRIAL DISPUTE No. 2 OF 1948.

Between

The Tannery Workers in Madhavaram and Sembiam area.

and

The Tanners in Madhavaram and Sembiam area.

INTERIM AWARD.

1. On 10th February 1948, the Joint Secretary, Madras Provincial Trade Union Congress and the President, Provincial Tannery Workers' Federation, Madras, filed a memorandum before me at Madras detailing the workers' demands and grievances.

2. On 11th February 1948, the workers of Sembiam and Madhavaram area filed an application praying that an interim award may be passed. I posted it for enquiry on 3rd March 1948 at Madras. As the parties desired to come to an understanding, the case was adjourned to 9th March when they filed a joint statement embodying the terms agreed upon and reserving one item of dispute for the decision by the Tribunal. It is referred to in the second paragraph

of item 1 of the joint statement. While the workers demanded 9 annas per unit for hides, the employers were not prepared to pay more than 8 annas per unit for hides.

3. The issue is: Whether, till the final award is passed and come into effect, the workers should be paid in respect of hides 9 annas per unit or 8 annas per unit.

4. From the oral representation made by the representatives of the tannery owners and tanners, I gather that the rate is not uniform in the entire Province.

5. The investigator, appointed by the Tribunal, visited 30 tanneries in North Arcot district and has submitted his answers for the questionnaire framed by me. It is found that, in Vaniambadi centre in a number of tanneries a sum of 9 annas is paid for unit in respect of hides. It was common ground that in some centres the rates for hides and skins were one and the same. Having regard to these circumstances, I advised the parties to come to a tentative agreement as regards the rates for hides. But they could not agree; and I was requested by both parties to fix a rate on the materials placed before me; I am of the opinion that 8½ annas per unit for hides will be a reasonable rate for the *interim* period. I do not wish that the workers should be left unemployed and get restless; and the tannery owners also should not be losing their profits for want of workers. After all it is only a *tentative* arrangement. I fix 8½ annas per unit for *hides* in Madhavaram and Sembiam areas from 1st March 1948, as a *tentative* rate and without *prejudice to the final decision* on the question.

6. In pursuance of the joint statement filed by the parties, I pass an award as hereunder—

(i) All managements in Sembiam and Madhavaram areas, who have not paid wages at the rate of (9) nine annas per unit for skins, shall pay (9) nine annas from 1st day of March 1948.

(ii) All tannery owners at Sembiam and Madhavaram area, who have not paid dearness allowance at the rate of Rs. 16 (sixteen) per mensem shall pay dearness allowance at Rs. 16 (sixteen) per mensem from 1st March 1948.

(iii) All tannery owners shall pay one month's wages as bonus from 1st January 1948 onwards.

(iv) All tannery owners shall provide at least one unit of work every day to all workers who report for duty, in default thereof to pay wages for one unit of work and the day's dearness allowance to all workers who report for duty.

(v) The present work-load shall continue till the final award by the Tribunal is published.

7. The tanners shall pay to the workers 8½ (eight and a half) annas per unit of hides from 1st March 1948.

8. This interim award shall be in force till the date of publication of the final award.

Order—No. 1947, *Development, dated* 19*th April* 1948.

In G.O. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. A. Subbiah Pillai, retired District and Sessions Judge. Now the Industrial Tribunal has reported that the workers and managements of tanneries at Sembiam, and Madhavaram areas have filed a joint statement agreeing to a tentative arrangement pending the final award in respect of the entire Province and therefore it has passed an interim award in terms of the said joint statement. The Government accept the award and make the following order :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri Rao Bahadur T. A. Subbiah Pillai), retired District and Sessions Judge, constituted in G.O. No. 6028, Development, dated 23rd December 1947, to adjudicate in the industrial disputes consisting between the workers and managements of the tanneries in the Province, in respect of the tanneries in Sembiam and Madhavaram areas has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the managements of the tanneries in Sembiam and Madhavaram areas and the workers employed therein and directs that the said award shall come into operation on the 19th April 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the tanneries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

K. G. MENON,
Joint Secretary to Government.

XIII

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

SRI C. R. KRISHNA RAO.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE GNANAMBIKA MILLS, COIMBATORE

and

THE WORKERS.

Mr. K. V. NARAYANASWAMI, Advocate—*for the Management.*

Sri CHINNADORAI, Sri VENKATARAMAN, Advocate, Sri THIRUVENGADAM, Sri RAMARAJ, Sri RAGHAVAN NAIR, and Sri RANGASWAMI, Advocate—*for the workers at different times.*

Subject.—Discharge of Ammasai and three others.—Whether justified.—Held on the evidence that there was a proper enquiry into each one of the cases, but the punishment was excessive. Held that the dismissals cannot stand.

2. *Whether Naniappan and two others voluntarily resigned their jobs.—Held* on the evidence that they had voluntarily resigned and are not entitled to reinstatement.

3. *Whether Kandasami and twenty-three others have been discharged as per the Standing Orders.—Held* on the evidence that it was not so much a question of discharge or dismissal as an abandonment of the service by the workers themselves.

Held that none of these twenty-four workers were entitled to reinstatement.

4. *Whether the discharge of Arumugham and Subbarayan on payment of thirteen days' wages justified.—Held* that the workers above all things desire security of employment; their discharge and dismissal must be reserved for grave misconduct and that though the discharge is strictly legal it cannot be upheld.

Held that Narayanasami abandoned the service and that there was no case for reinstatement.

Held that Rasiappan and Venkatasami refused to work on some other job and stopped away.

Held there was no case for reinstatement.

5. *Compensation for non-employment of the six workers directed to be reinstated.—Held* that nearly one year has elapsed after the dismissals and discharge, that the management is not wholly responsible for the delay in the proceedings, and that the management is also technically correct in the action taken.

Held in the circumstances of the case that the discharged workers are not entitled to wages but to subsistence allowance calculated at the rate of one-third of the total earnings of the workers for a period of six months.

G.O. Ms. No. 1993, Development, dated 21st April 1948.

[Labour—Disputes—Dispute between the workers and management of the Gnanambika Mills, Coimbatore—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 4242, Development, dated 1st September 1947.

(2)

Letter from Sri C. R. Krishna Rao, Industrial Tribunal, Brahman Extension, Coimbatore, to the Secretary to Government Development Department, dated 19*th March* 1947, *No. I.D.* 5 *of* 1947.

[G.O. Ms. No. 4242, Development, dated 1st September 1947. Dispute between the workers and the management of the Gnanambika Mills, Coimbatore—Submission of Award.]

I have the honour to submit my award herewith in the dispute between the workers and the management of the Gnanambika Mills, Limited, Coimbatore, which was referred to me for decision.

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

PRESENT :

SRI C. R. KRISHNA RAO.

INDUSTRIAL DISPUTE NO. 5 OF 1947.

Between

The Management of the Gnanambika Mills, Coimbatore

and

Their Workers.

Appearance for the management—Mr. K. V. Narayanaswami, Advocate.

Appearance for the workers at different times—

(1) Sri Chinnadurai.
(2) Mr. Venkatraman, Advocate.
(3) Sri Tiruvengadam.
(4) Sri Ramaraj.
(5) Sri Raghavan Nayar.
(6) Mr. Rangaswami, Advocate.

AWARD.

Government referred this dispute to me for adjudication by their Order Ms. No. 4242, Development, dated 1st September 1947. The main question for decision is whether 37 workers who are no longer working in the mills should be reinstated. According to the management some were discharged, some were dismissed, some resigned and others abandoned service and stayed away. None of these is entitled to be reinstated. According to the workers, because they happened to be members of the Union, some were dismissed or discharged on frivolous charges, and others had to stay away because they were beaten or threatened to be beaten on account of their Union activities.

2. The following issues were framed :—

(1) Were the following workers dismissed after due enquiry for just and sufficient cause :—

1. Ammasai—Reeling department—113.
2. Ayyaswami—Spinning department—98.
3. Rangaswami—Spinning department—285.
4. Ramaswami—Spinning department—211.

(2) Did the following workers resign their jobs?

1. Nanjappan—Spinning department—281.
2. Ramaswami, R. V.—61.
3. Ramaswami alias Ramakutti—Spinning department—96.

(3) Did the following workers absent themselves for more than three days without leave and therefore were lawfully and justly discharged under the Standing Orders?—

1. Kandaswami—Spinning—9.
2. Krishnaswami—Spinning—8.
3. Kaliannan—Spinning—38.
4. Kuppannan—Spinning—262.
5. Kuppuswami—Spinning—94.
6. Kondaswami (C. R.)—C.D.—4.
7. Marudachalam—Spinning—217.
8. Nagappan—Spinning—275.
9. Nanjappan—Spinning—289.
10. Palaniappan—Spinning—29.
11. Palani—Spinning—246.
12. Ponnuswami—Spinning—231.
13. Ponnai Goundan—Rov. Int.—3.
14. Ponnuswami, Gr.—Spinning—19.
15. Ponnuswami—Rov.—5.
16. Ponnuswami alias Viruthannan—C.D.—14.
17. Ramaswami alias Ramaraju—Spinning—35.
18. Ramaswami—Spinning—25.
19. Rangaswami—Spinning—295.
20. Subbayyan—D.R.—4.
21. Thanasi—Spinning—78.

22. Duraiswami—Spinning—236.
23. Nanjappan—Spinning—112.
24. Ponnuswami—Spinning—237.

(4) Was the service of the following two persons terminated on payment of thirteen days wages and is such termination lawful and just?

1 Arunachalam—Spinning department—218.
2 Subbayyan—Spinning department—227.

(5) Did the following person absent himself during enquiry and was for that reason discharged and is such discharge valid and just?

Narayanaswami—Spinning department—68.

(6) Did the following persons refuse to do changed work and leave the mill, and therefore were validly discharged?

1 Kandaswami—Rov.—13.
2 Rasiapan—Spinning—7.
7 Venkitaswami Nayudu—Blow room—5.

(7) Or contrarily were any of the workers victimized by the management on any of the grounds mentioned by the workers and if so which of them are entitled to be reinstated?

(8) Are the workers who are reinstated to be paid wages, and if so at what rates and from what date?

(9) Have the standing orders been certified by the Commissioner of Labour and if they are not, are they binding on the workers? Is action taken under the uncertified standing orders valid?

3. The Gnanambika Mills are situated near Vellakkinar. The Managing Agents are Messrs. V. C. Vellingiri Gounder and Brothers. Sri V. C. Vellingiri Goundar, M.L.A. (Central) and Sri V. C. Palaniswami Gounder, M.L.A. (Provincial), are two of the managing agents. Sri Subbayya Gounder is in charge of the mills. The Managing Agents are said to be very big landholders and very powerful in their village. The case of the workers is that the management were opposed to any of them joining the Union and those who joined were victimized in various ways and got rid off. A large number of workers are drawn from Urumandapalayam and a considerable number from Pannimadai. It is said that Urumandapalayam workers began to ill-treat and even beat the workers from Pannimadai and so many of the workers from the latter village had to leave the mills.

4. A branch of the Union has been opened at Pannimadai. In February 1947, there was a general strike in which the workers from Gnanambika also participated. On 18th April there was a labour conference at Singanallur. A large number of workers from Gnanambika attended it with or without leave. Within a fortnight of the date of conference about 20 workers left the mill for

one reason or another. This is relied on by the workers as showing that there was an amount of ill-treatment, without which there would not have been this large withdrawal. On the other hand, it has been contended by the management that the workers returned from the conference with an exaggerated sense of their strength and importance and so left the mills. One Rasiappan was asked by his maistri to work on another machine, because the worker who usually worked there was absent. He not only refused to do the work, but told the maistri, that he could find jobs for two such men as he. The learned Counsel for the management suggested that this attitude showed which way the wind blew.

5. There have been several cases of assault, but only one which even according to the workers had any connexion with Union activity. P.W. 3, Ponnai Gounder, was beaten by one Chinnan but this was not reported to the Manager or to the Police. Granted that a worker beat another worker from Pannimadai, because the latter had attended the conference or was an active member of the Union, that does not show that the management had anything to do with it. There is no evidence at all to show that the management incited the Urumandapalayam workers to beat the Pannimadai workers. Chinnan belongs to Pudur.

6. A more natural explanation for the conflicts between Union and non-Union men working in the same shop is available. Regarding such mixed shops, says Taussig in his Principles of Economics, "It seem to be better, however, that no individual shop should be half opened and half closed—employing half Union men and half non-Union. . . This plan of letting the men to do as they please—join or not join—rarely works well. So eager and vehement is the Unionist spirit that where the movement has once taken hold, there is constant nagging of the non-Union men." Whether the nagging is done by the Union or the non-Union men depends on their respective strengths. But whoever does the nagging, does so quite independently of the management. Where workers in the same shop belong to two rival Unions and they fight, they do not require any encouragement or incitement from the management to do so. The same is the case where Union and non-Union men fight. But in this dispute, there was only one stray case of assault—by Chinnan. There is no evidence, though the workers' written statement alleges it, that any goondas were hovering about the mills armed with lathis to beat Union workers.

7. Another fact on which both sides rely is that the Gnanambika Mill alone is now working under the Standardization Scheme. The workers say that this mill is working because the management is so powerful that a strike cannot be organized. But only in February 1947, the workers in Gnanambika Mills also struck work. If they were not afraid of the management then why should they be afraid now? The management say that they have earned the loyalty of the workers, that they have paid to some workers bonus amounting

to seven months' wages, that they reward faithful service, and so common sense and the expectation of a large bonus which depends on service, have kept their workers at their posts.

8. With this background in view, I shall now proceed to consider the individual issues.

Out of the 37 workers who want to be reinstated, four did not appear before me and their cases must be presumed to be dropped.

Issue 1.—Ammasai (P.W. 8) is said to have kicked another worker called Lakshmi. She denied having kicked Lakshmi. The Manager examined the parties and one Nallakkal who supported Lakshmi. He was satisfied that Ammasai was guilty and dismissed her. Exhibit XI series is the record relating to this enquiry.

P.W. 10, Ayyasami, hit one Muthusami with a pump. The Manager recorded statements and found Ayyasami guilty and dismissed him.

P.W. 23, Rangaswami, beat one Nanjukutti and tore his shirt. Exhibit XIII series is the record of enquiry. One Marudachellam supported Nanjukutti. The Manager believed him and dismissed Rangasami.

P.W. 9, Ramaswami, is said to have beaten Arunachallam. According to Ramaswami, Arunachellam beat him and he did not beat Arunachellam at all. Arunachellam went to take bobbins from Ramaswami's basket and then a scuffle ensued. Believing the two workers who were examined as witnesses, the Manager found Ramaswami guilty and dismissed him.

The Manager evidently subscribes to the doctrine, " The large scale industries of our day call for semi-military organization—for punctuality, prompt obedience, submission to orders. Discipline in the employers' hands rests on the power of discharge." Taussig. Principles of Economics.

I agree that the findings of the Manager are correct but the punishment is, in my opinion, too severe. They all seem to be first offences and suspension for a period would have been quite sufficient to enforce discipline and orderliness. Ramaswami did have some provocation.

I find that there was an enquiry, but the punishment was excessive. The dismissals cannot stand.

Issue 2.—The workers who are said to have resigned have been examined as P.Ws. 13, 22 and 3. Their letters of resignation have been produced. I do not see any reason for holding that the letters are not genuine. They were presented to the Manager and in two cases certificates were returned to the workers. I find that these workers resigned and are not entitled to be reinstated.

Issue 3.—Under Standing Order XX (f) absence for 3 consecutive days without sufficient cause is a misconduct for which a worker may be dismissed without notice. The case of the management

is that these 24 workers absented themselves not only for three days but did not turn up at all nor did they offer any explanation. The workers have, each one a different explanation.

Thus P.W. 29, Kandasami, says that he took leave for four days and when he went after the leave, he was not admitted. Exhibit XVI (*a*) shows he took only one day's leave and the time-keeper says that the worker did not tell him he had lost his card. Once before he had overstayed and was taken back. I do not believe P.W. 29.

P.W. 6, Krishnaswamy, took leave and then holidays. He says he wanted one month's leave and the maistri said he would get this leave also. The maistri (D.W. 3) contradicts him. There is a certain procedure for obtaining leave and the leave granted is noted on the worker's card. This worker also says he lost his card. I disbelieve him.

P.W. 30, Kaliannan, took leave and did not turn up again. He said that the manager wanted a medical certificate when he wanted to extend his leave, he did not furnish one. He last attended the mill on 3rd April 1947, i.e., 15 days before the conference. He says he has lost his ticket too. I do believe this witness.

P.W. 15, Kuppana Goundar, says that the maistri told him to sever his connexion with the union and threatened him. Even if this is true, the management is not responsible and there was no complaint to the Manager.

Spinning No. 94, Muthusami or Kuppuswami did not appear.

P.W. 24, Kondaswami, says that he was threatened after the conference and he left. But the muster roll shows that he left long before the conference.

P.W. 21, Maruda Chellam, says that he stayed away because another worker was beaten and he got afraid. As a second reason he says that he was asked to sign a paper and he refused.

P.W. 28, Nagappan, says he was asked to work in the canteen. D.W. 5 denies this. I do not believe P.W. 28's story. He cannot cook and it is not at all probable he would be asked to cook in the canteen.

P.W. 4, Nanjappan, says that he was afraid and his father also told him not to go to the mill. He is doing barber's work now.

P.W. 7, Palaniappan and P.W. 26, Ramaswamy, say that they were warned by D.W. 4, Kurunda Chellam, not to go to the mill where they might be beaten. They abstained from going. D.W. 4 denies this.

P.W. 19, Palani, says he was threatened on 3 successive days with a beating by Kolanthaiappan, a maistri. D.W. 2 denies this.

P.W. 16, Ponnuswami says that after the February strike was called off, he went to the mill, but the time-keeper would not allow him to join. Two other workers (P.Ws. 18 and 19) appear to have

been taken even so late as 1st March 1947. I do not see why the time-keeper should have prevented this worker from joining. No complaint was made to the manager.

P.W. 3, Ponnai Goundar, says he was beaten by Chinnan. According to the written statement Chinnan beat Ponnai Goundar inside the mill and was only chased outside but not beaten by Chinnan and other goondas who were armed with lathies. But in his evidence Ponnai Goundar says he was beaten with a boot by Chinnan outside the mill and not inside where he was only threatened. It was not goondas who prevented him from going in but the watchman and he does not say a word about lathies. In fact he says Chinnan had no stick. There was only one other worker present. I do not believe Ponnai Goundar.

P.W. 5, Kuppuswami, says he was absent for a day and next day when he went to the mill, he was not allowed to go in, a most extraordinary story. He does not say the refusal to admit him had anything to do with his being a member of the union.

P.W. 14, Ponnuswamy, says that he got afraid because Ponnai Goundar (P.W. 3) was beaten and he stayed away.

P.W. 17, Ponnuswamy, says that Urumandapalayam workers were threatening to beat Pannimadai workers and so he stayed away. He is from Pannimadai.

P.W. 33, Ramraj, is the Secretary of the branch of the union at Pannimadai. It was started after the general strike. He was not given leave to attend the conference. But he attended it all the same. When he was going to the mill, he was told by the wayfarers that men with sticks were waiting near the mill to beat union men. He admits that some Pannimadai people are still working in the mill. The manager also says that many of the workers from Pannimadai are still working and a quite a large number of workers are still members of the union.

P.W. 26, Ramaswamy, puts forward the same story as P.W. 7.

P.W. 27, Rangasami, says that he sent word by his brother who is also a worker and a member of the union that he wanted an extension of leave. He thought he had been granted leave, but when he went to join duty, he was told he had overstayed and had been discharged. His brother, however, is still working in the mill, though a member of the union.

P.W. 24, Kondaswamy, P.W. 25, Thannasi, alias Odhimalai and P.W. 32, Nanjakutti, say they got afraid and stopped.

Before the Conciliation Officer, the complaint of the union seems to have been that 4 workers were dismissed and 18 others wrongfully discharged. In all 22 workers were thus affected. But now the number has swollen to 37. At the time of the enquiry several workers came to give evidence that they also had been wrongfully

discharged but as their names were not included in the statement, they were not examined. The complaint of the management is that the union got hold of all those workers who had been working in the mill at some time or other and had left it to make a long list of grievances. The evidence adduced in several cases is different from the case set up in the written statement. Even if Urumandapalayam workers threatened the Pannimadai workers for having attended the conference that was not a sufficient excuse for staying away. They could have complained to the management. The easiest thing is to send a letter by post to the manager even if the gateman or time-keeper refused admission. I do not believe the evidence of these witnesses. It was not so much a question of discharge or dismissal as of abandonment of service. I find that none of these 24 workers is entitled to be reinstated.

Issue 4.—Arumugam and Subbayyan were discharged on payment of thirteen days wages. The manager could lawfully terminate their services thus under the standing orders. Nothing was stated in the management's statement as regards these workers. But now it is stated that on the night Ramaswami beat Arunachellam, these two workers collected a crowd and caused a cessation of work for about half an hour. Assuming that this is so, discharge without obtaining an explanation cannot be held to be a proper punishment. It is too severe. Workers, above all things, desire security of employment. Discharge and dismissal must be reserved for grave misconduct. Though the action of the manager is strictly legal, I am unable to uphold the discharge of these two workers.

Issue 5.—Narayanasami and Kittan fought with each other and a report was made to the manager. While he was holding the enquiry Narayanaswami stopped away. He says that he fell ill. Kittan was suspended. This is a case of abandonment of service. I do not see any ground for reinstating this worker.

Issues 6 *and* 7.—Rasiappan (P.W. 12) was asked to do work on another machine and he refused. There is no mention of this in the written statement of the workers. There it is stated that the maistri abused the worker for attending the conference and was afterwards sent away. Exhibit D is said to be the statement made by this witness. Rasiappan admits that the signature on it is his but he says he signed on a blank paper. But he admits that the substance of the statement is correct. The manager says he recorded Exhibit D. This is a case of abandonment and not of discharge.

P.W. 11, Venkataswamy, was asked to work in the mixing room and he refused. He was a balebraker. He also stayed away. This again is a case of abandonment.

Kandaswami was not examined. None of these three workers is entitled to be reinstated.

Issue 8.—I have found that the four dismissed workers Ammasai, Ayyaswami, Rangaswami and Ramaswami and the two discharged workers Arumugham and Subbayyan alone are to be reinstated. Nearly one year has elapsed after the dismissals and discharges and the workers are themselves in a measure responsible for this. I received the Government Order referring the dispute for decision on 6th September 1947. But issues could not be framed till 17th November 1947, and the trial could not begin till 26th January 1948 and the trial could be completed only on 10th March 1948. It would be unfair to ask the management to pay wages or compensation for this long period when they are not wholly responsible for the delay in the proceedings. I may also state that technically the action of the management was correct. The workers say that they have been idle. Is it likely that able-bodied young people did not engage themselves in any gainful occupation during the last eleven months and lived on the hope of being reinstated with arrears of wages? I think that the discharged and dismissed workers are not entitled to wages, but only to a subsistence allowance and for a period of six months only. The monthly subsistence allowance will be one-third of the total earnings of the worker, i.e., basic wages and dearness allowance in the month of January or March 1947 whichever is larger. As an example, suppose Arumugam's earnings in March 1947 were higher than in January and in the month of March, that his basic wages amounted to Rs. 35 and his dearness allowance to another Rs. 35 he will be entitled to a total subsistence allowance for six months of Rs. $\frac{70 \times 6}{3}$ = Rs. 140. And so in the other cases. The subsistence allowance allowed will be in addition to the thirteen days' wages paid or payable to the workers, Subbayyan and Arumugam when they were discharged under the standing orders.

Issue 9.—The management have done all that they could to get their standing orders certified. And they cannot do more. Until the Commissioner of Labour issues the certificate the old orders remain in force. I find this issue against the workers.

9. The result is that the workers—

Ammasai,	Ramaswami,
Ayyaswami,	Arumugam, and
Rangaswami,	Subbayyan

will be reinstated if they report themselves within fourteen days after the publication of this award. They must be given as far as possible work in their old departments. The management must also pay to them subsistence allowance as stated in my finding on issue 8 within one month from the publication of the award.

The demand of the other workers to be reinstated is disallowed.

Order—No. 1993, *Development, dated* 21*st April* 1948.

Whereas the award of the Industrial Tribunal, Coimbatore, in respect of the industrial dispute between the workers and the management of the Gnanambika Mills, Coimbatore, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Gnanambika Mills, Coimbatore, and the workers employed therein and directs that the said award shall come into operation on the 21st April 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MONON,
Secretary to Government.

XIV

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

ADAIKALAM PILLAI, CONTRACTOR UNDER MADURA MILLS

and

THE WORKERS.

Subject—Representation of workers in the Industrial Court proceedings.—Held that under rule 23 of the Industrial Disputes Rules only an officer of a registered Trade Union or a legal practitioner may appear. The Secretary, District Congress Labour Sub-Committee, as such has no *locus standi.* The signatures of some workers, not dated and attested, cannot empower an advocate to appear on behalf of workers.

2. *Whether the reference of the dispute to the tribunal is not valid.—Held* that the reference made by the Government is clear and definite.

3. *Bonus.—Held* that as the workers were all casual labourers, they are not entitled to any bonus.

4. *Compensation for workers.—Held* that there was no lock-out and that they cannot claim compensation for loss of employment as they were only casual labourers.

G.O. Ms. No. 2286, Development, dated 6th May 1948.

[Labour—Disputes—Dispute between Adaikalam Pillai, the contractor of Madura Mills Company, Limited, Ambasamudram and his workers—Recommendation of the industrial tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 5651, Development, dated 6th December 1947.

(2)

From the Industrial Tribunal, Madura, dated 25th March 1948, *No. Nil.*

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

INDUSTRIAL DISPUTE NO. 9 OF 1947.

Between

The workers under Adaikalam Pillai, a labour Contractor under Madura Mills, Ambasamudram

and

Adaikalam Pillai, the Contractor.

AWARD.

1. The Madura Mills have a branch at Papanasam (Vikramasingapuram) near Ambasamudram railway station. The mills have got a railway siding in their compound into which the goods wagons from the railway station are brought for unloading bales of cotton and loading bales of yarn manufactured in the mills. For about 15 years, Adaikalam Pillai has been supplying coolie labour for the loading and unloading the goods as a contractor under the mills.

2. It is stated by the workers that, on 23rd March 1947, they insisted that Adaikalam Pillai should pay them bonus just as the workers under the Madura Mills were paid. But Adaikalam Pillai refused to pay and asked them to clear out. On the next day, they appeared again before him and requested him to admit them for work. But he declined to permit them to work; they have thereby been put to enormous loss; and compensation must be paid to them for having deprived them of their employment.

3. The contentions of Adaikalam Pillai are—

He is *not a permanent* contractor for supply of coolie labour. Though he had been supplying the labour for a number of years,

the contract between him and the mills could be terminated at the end of any year. In such circumstances, he was not in a position to employ permanent labour. Further, the work in the siding yard depends upon the arrival of goods trains and the number of wagons brought into the siding for loading and unloading. He could engage only such number of workers as would be required for the work that was available for the day. It might be that he was employing a few persons regularly whenever there was work. The workers are not paid by the month. They are paid only daily wages though for the sake of convenience the wages were calculated and payment was made once in a month.

4. The further contentions of Adaikalam Pillai are—

The workers, who had complained to the authorities that they were dismissed summarily and that there was a lock-out were not 'workmen' as defined in the Industrial Disputes Act. The alleged dispute is also not an 'industrial dispute' within the meaning of the expression. The reference to the tribunal is vague, indefinite and invalid. The men, who had worked under him, are only *casual* labourers. There was no lock-out by him. The labourers themselves, without valid reasons struck work at the instigation of the communist-leaders and also behaved rudely and violently and also intimidated Adaikalam Pillai. In any event, they are not entitled to reinstatement or compensation. The Industrial Tribunal has no jurisdiction to award compensation for alleged loss of employment. The workers, who had worked under him, have no Workers' Union or Labour Union. If there was any union, it has not been registered as a Trade Union. The Secretary of the District Congress Committee Labour Section, who has filed the statement on their behalf, cannot validly represent them in the proceedings before this tribunal.

5. The issues are—

(i) Whether the workers have been duly represented in this proceeding.

(ii) Whether the reference to the Tribunal is not valid and is vague and indefinite.

(iii) Whether the workers employed by Adaikalam Pillai are workers on daily wages and cannot claim the benefits of the provisions of Act XIV of 1947.

(iii-*a*) Whether the dispute between the contractor, Adaikalam Pillai and his workmen is an 'industrial dispute' as defined in the Act.

(iv) Whether the workers were dismissed summarily and there was a lock-out.

(v) Whether the workers, who have not been reinstated, are entitled to reinstatement.

(vi) Whether the workers are entitled to any compensation and whether this tribunal has jurisdiction to award compensation.

6. *First issue.*—It is proved that there is no workers' union or Labour Union composed of the workers employed under Adaikalam Pillai. Under section 36 of the Act, a worker, who is a party to an industrial dispute, is entitled to be represented in any proceeding under the Act by an officer of a registered trade union. Not only should there be a union but it must also be a registered union, if the workers wished, that the officer should act and plead on their behalf before the tribunal.

7. All the workers, in this case, did not individually appear before this tribunal at the time of the enquiry; nor did they authorize in writing anybody to represent them as suggested by me on one of the earlier hearings. On the 15th March 1948, an advocate filed a memorandum of appearance stating that he had been duly instructed to appear for the workers in this dispute and wanted a short adjournment as he had not been fully posted with the facts of the case; and I granted time till 19th March. On that day the witnesses were examined and the arguments heard.

8. It has to be noted that the statement of the claims and the grievances of the workers was not signed by the workers or by even a single worker; it was signed and presented by Sri Krishnan, Secretary, District Congress Labour Sub-Committee, Tinnevelly. This was on the 10th February 1948. That gentleman had no locus standi, in this proceeding; nor can he sign any pleading or statement on behalf of the workers in this case. The statement, signed and presented by him purporting to be on behalf of the workers, cannot be looked into and must be deleted from the record. The learned advocate, who presented a memorandum of appearance on the 15th March, after he finished the arguments, presented to me a paper containing a number of signatures alleged to be the signatures of *some* of the workers under Adaikalam Pillai. On the 15th March, I had pointed out to him that the Secretary, District Congress Labour Sub-Committee, was not entitled to represent the workers before this tribunal. Rule 23 of the rules framed under the Act, says "Any party to a reference before the tribunal may be represented by a legal practitioner who shall file a memorandum of appearance with the permission of the tribunal and subject to such conditions or restrictions as the tribunal may impose." There is no guarantee that the signatures found in the paper and presented to me by the advocate, contains the signatures of the persons whose signatures they purport to be. The advocate admitted that it contained the signatures of only *some* of the workers concerned in this dispute and enquiry. It is obvious that he considered it necessary that his authority to represent the workers should be fortified by securing the written consent of *all* the workers concerned. But the signatures of only some of the workers appear in that paper, assuming of course, that they are all genuine signatures. Admittedly all the workers have not signed that paper. The authorization paper is not dated and not attested. In these circumstances,

I cannot but hold that the advocate has not been duly authorized to represent the workers in this proceeding. I must also find that there is no duly authorized statement of the claims and demands of the workers before this tribunal. The finding on the first issue is that the workers had not been duly represented in this proceeding.

9. In view of the findings given above, I need not enter into the questions covered by the other issues and give findings thereon. However, I propose not to be technical and shall, therefore, discuss the other matters also and give the findings.

10. *Second issue.*—There is no point in this contention raised by the employer, Adaikalam Pillai. The reference made by the Government is sufficiently clear and definite; I do not also find any invalidity attached to it. On the report of the Commissioner of Labour, the Government, after satisfying themselves that a dispute existed which could be referred to the tribunal, have done so. The rules framed under the Act were published, after the Government referred the dispute for adjudication. The workers could not have anticipated that they should put forth their demands and represent their grievances in any prescribed form. The issue is found against the employer.

11. *Third issue.*—Even the witness, examined on the workers' side, admitted that he was paid wages only for the days he actually worked, though he took care to add that, in case he worked for more than 15 days in a month, he would be given an extra salary for four days and that, if the number of days he worked in the month fell short of 15, he would be paid an extra salary only for two days. (This extra salary is of the nature of an *ex gratia* payment made at the sweet will and pleasure of the employer, Adaikalam Pillai.) These admissions are sufficient to conclude that the workers employed by Adaikalam Pillai are only daily-rated and that they are not working on a monthly basis.

12. A Muslim, employed by the Madura Mills, to supervise the work of loading and unloading in the railway siding, deposed that on some days goods trains would not arrive; that the volume of work of loading and unloading in the siding could not be uniform; that Adaikalam Pillai would engage only such number of coolies as woud be required to finish the work that was available on the particular day, and that, if more than the necessary number should be present, he would send away the surplus men who would go away without demur and unremunerated. There is absolutely no reason why this Muslim, employed in the Madura Mills, should give false evidence to support the Christian, Adaikalam Pillai.

13. A register in the form of an attendance register has been maintained by Adaikalam Pillai, in order that the number of days on which the several workers worked in the month could be calculated and the wages assessed and paid accordingly, as the practice

was to make the payment only once in a month. It was admitted by the witness, on the side of the worker, that the workers could not claim and were not paid wages for the days of absence. (Of course, he stated that 2 days or 4 days' pay was added to the pay for the days of actual work.) The individuals would vary from day to day. The number also would vary from day to day. There was no obligation on the part of Adaikalam Pillai to provide alternative items of work on the days when there was no loading or unloading in the railway siding. There was also no obligation on the part of the workers to maintain regular attendance. Further, it is in evidence that the workers took to other occupations on the days when Adaikalam Pillai could not find work for them and did not pay any wages. It might be that some workers worked under Adaikalam Pillai for several years on the days when he could provide work for them. This single circumstance is not sufficient to declare them as permanent workers or workers with any fixity of tenure. I have pointed out above the various circumstances which lead to the conclusion that the workers under Adaikalam Pillai could not be classified as permanent or regular workers. I am clearly of the opinion that they are only casual workers who are paid only daily wages for the days they actually worked and I find the issue accordingly.

14. The next question that falls to be considered is whether the workers in this case are entitled to bonus. The controversy with regard to bonus was the cause of the rupture between the parties. The workers did not work on the 23rd and 24th March 1947. The case of the workers is, that Adaikalam Pillai locked them out on those days and prevented them from doing the work. The work was, however, attended to by the coolies supplied by the Madura Mills. After lapse of one week, Adaikalam Pillai engaged fresh men to do the work. It is admitted by both parties that the Police were on the scene. The case of Adaikalam Pillai is that the workers struck work, as he did not then and there agree to comply with the demand of the workers and pay bonus and that he did not lock them out; while the workers would state that, though they insisted on payment of bonus, they did not strike work and it was Adaikalam Pillai that prevented them from attending to their work on 23rd and 24th March and subsequent days. On this point also I prefer to act on the testimony of the independent and disinterested witness, the Muslim clerk of the Madura Mills. He supports Adaikalam Pillai's version.

15. Since I have held that the workers in this case are only casual labourers, who are paid daily wages, I hold that they are not entitled to any bonus.

16. There was a lightning strike on the 23rd and 24th March 1947 by the workers in order to coerce, if possible, the employer, Adaikalam Pillai, to agree to the payment of bonus. There was

no lock-out by the employer. They are also only casual labourers, entitled to daily wages. They cannot, therefore, claim any compensation for the loss of employment. The second portion of the third issue is found accordingly.

17. *Issue III (a).*—The definition of industrial dispute found in the Act is wide enough to bring this dispute under the category of the industrial dispute. The issue is found in the affirmative.

18. *Fourth issue.*—I have already dealt with the question of lock-out and I have already held that the workers are only casual labourers, entitled to nothing more than daily wages. They could be sent away by Adaikalam Pillai at any time. It is not, therefore, correct to say that they were dismissed summarily. There could also be no lock-out in this case. Fourth issue is found accordingly.

19. *Fifth issue.*—It should follow from the findings on issues 3 and 4 that the workers are not entitled to reinstatement. This issue is found in the negative and against the workers.

20. *Sixth issue.*—The question of compensation has already been considered. I hold that the workers are not entitled to any compensation.

21. As regards the second portion of this issue, I must hold that if it could be found that the workers in this case were permanent workers and that they were dismissed summarily, this tribunal would certainly have jurisdiction to award compensation for loss of employment.

22. The result of my findings is that the workers in this case are not entitled to any of the reliefs claimed in the statement filed on their behalf by the Secretary, District Congress Labour Sub-Committee.

Order—No. 2286, *Development, dated 6th May* 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the dispute between the contractor of Madura Mills Company, Limited, Ambasamudram, and his workers, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the award shall be binding on Sri Adaikalam Pillai, the contractor of the Madura Mills Company, Limited, Ambasamudram, and his workers.

(By order of His Excellency the Governor)

C. P. MADHAVA MENON,
Assistant Secretary to Government.

XV

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF TANNERIES AT RANIPET (NORTH ARCOT DISTRICT)

and

THE WORKERS.

INTERIM AWARD.

Subject.—Award in terms of the memorandum of agreement.

G.O Ms. No. 2424, Development, dated 11th May 1948.

[Labour—Disputes—Dispute between the workers and management of tanneries at Ranipet, North Arcot district—Interim recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 6028, Development, dated 23rd December 1947.

(2)

From the Industrial Tribunal of Madras, dated 16th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal of Madura.

TANNERY INDUSTRIAL DISPUTE NO. 3 OF 1948.

Tannery Labour Union, Ranipet, North Arcot district,

versus

South India Tanners and Dealers' Association, Ranipet.

INTERIM AWARD.

The parties entered into an interim arrangement, pending the final award by the Industrial Tribunal, on the 21st day of March 1948. The tanners did not press their contention that it was brought about under threat of strike.

In pursuance of the joint statement filed by the parties, I pass an interim award in the following terms :—

(1) The workers shall be paid one anna per unit in excess of the present rate.

(2 To workers who get 7 annas and to female workers, the dearness allowance shall be paid at Rs. 10-8-0 per mensem.

(3) To workers who get 9 annas and 8 annas, the dearness allowance shall be paid at the rate of Rs. 16 per mensem.

(4) That the workers shall withdraw their strike notice.

(5) If possible, one unit of work shall be given to workers.

(6) The said agreement shall take effect from the 16th day of March 1948 and be in force till the final award to be passed by this Tribunal takes effect.

Order—No. 2424, *Development, dated* 11*th May* 1948.

In G.O. Ms. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge. Now the Industrial Tribunal has reported that the Tannery Labour Union, Ranipet, and the South India Tanners and Dealers Association, Ranipet, filed a joint statement agreeing to an interim arrangement pending the final award in respect of the entire Province and therefore it has passed as interim award in terms of the said joint statement. The Government accept the award and make the folowing order:—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge) constituted under G.O. Ms. No. 6028, Development, dated 23rd December 1947, to adjudicate in the industrial disputes existing between the workers and managements of tanneries in the Province, in respect of the Tannery Labour Union, Ranipet, and the South India Tanners' and Dealers' Association, Ranipet, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the members of the South India Tanners and Dealers Association, Ranipet, and the workers employed by them and directs that the said award shall come into operation on the 11th May 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the tanneries in the Province is accepted by the Government whichever is earlier.

2. The Commissioner of Labour is requested to send copies of this order to the managements and workers concerned.

(By order of His Excellency the Governor)

K. G. Menon,

Secretary to Government.

XVI

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF TANNERIES AT PERNAMBUT (NORTH ARCOT DISTRICT)

and

THE WORKERS.

INTERIM AWARD.

Subject.—Award in terms of the memorandum of agreement.

G.O. Ms. No. 2425, Development, dated 1[illegible]th May 1948.

[Labour—Disputes—Dispute between the workers and management of tanneries at Pernambut, North Arcot district—Interim recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 6028, Development, dated 23rd December 1947.

(2)

From the Industrial Tribunal of Madura, dated 16th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal of Madura.

TANNERY INDUSTRIAL DISPUTE NO. 4 OF 1948.

Between

The Pernambut Tannery Workers Union

and

The Pernambut Tanners' Association, Pernambut.

INTERIM AWARD.

In the presence of the Subdivisional Magistrate at Tiruppattur (North Arcot district) on 22nd of March 1948 the parties entered into an interim arrangement pending the final award by the Industrial Tribunal. The tanners did not press their contention that it was brought about by threat and undue influence.

In pursuance of the joint statement filed by the parties I pass an interim award in the following terms :—

(1) The workers who do the work connected with hides shall be paid per unit one anna in excess of the present rates, that is to say—

	RS.	A.	P.
(a) For Ilangaram, Tanna and Chakram.	0	9	0
(b) Mottu worker	0	8	0
(c) Thotti	0	7	0

To the above workers, dearness allowance at Rs. 16 per mensem shall be paid.

(2) To the workers below 16 years of age, dearness allowance at Rs. 10-8-0 per mensem shall be paid. This rate applies to the workers of such age who attend to skins.

(3) To workers who attend to skins, with regard to Ilangaram, Tanna, Chakram and Mottu, 9 annas per unit shall be paid. The work should be clean and good and free from any kind of defect.

(4) If possible one unit of work shall be given to workers.

(5) To female workers, the salary and dearness allowance shall be paid as per the rate obtaining at Ranipet on the 22nd of March 1948.

(6) The said arrangement shall take effect from the 16th day of March 1948 and shall be in force till the final award of the Tribunal is brought into froce.

(7) The workers should resume work from the 23rd of March 1948.

At 2-30 p.m. on the 22nd of March 1948, the workers withdrew their strike notice in the presence of the Subdivisional Magistrate and they agreed to resume work.

Order—No. 2425, *Development, dated* 11*th May* 1948.

In G.O. Ms. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge. Now the Industrial Tribunal has reported that the Pernambut Tannery Workers' Union and the Pernambut Tanners' Association filed a joint statement agreeing to an interim arrangement pending the final award in respect of the entire Province and therefore it has passed an interim award in terms of the said joint statement. The Government accept the award and made the following :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge)

constituted under G.O. Ms. No. 6028, Development, dated 23rd December 1947, to adjudicate in the industrial disputes existing between the workers and managements of tanneries in the Province, in respect of the Pernambut Tannery Workers' Union and the Pernambut Tanners' Association has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the members of the Pernambut Tanners' Association, Pernambut, and the workers employed by them and directs that the said award shall come into operation on the 11th May 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the tanneries in the Province is accepted by the Government whichever is earlier.

2. The Commissioner of Labour is requested to send copies of this order to the management and workers concerned.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XVII

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE TANNERIES AT AMBUR

and

THE WORKERS.

INTERIM AWARD.

Subject.—Award in terms of the joint statement of parties.

G.O. Ms. No. 2426, Development, dated 11th May 1948.

[Labour—Disputes—Dispute between the workers and management of tanneries of Ambur, North Arcot district—Interim recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 6028, Development, dated 23rd December 1947.

(2)

From the Industrial Tribunal of Madura, dated 17th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT:

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal.

TANNERIES INDUSTRIAL DISPUTE NO. 6 OF 1948.

Between

The Tannery Workers of Ambur, North Arcot district

and

The Proprictors of Tanneries of Ambur, North Arcot district.

INTERIM AWARD.

The representatives of the parties amicably settled their disputes in the presence of the Sub-Magistrate of Ambur and the terms of the settlement were reduced to writing. While I was camping at Vellore, the workers presented before me a carbon copy of the joint statement.

The representative of the employers contended that the agreement was brought about by threat of strike and coercion and that therefore it was not binding on the employers. I therefore framed the following issue:—

Whether the agreement was brought about under coercion and undue influence and is therefore not legally enforceable.

On the next day, the representative of the employer stated before me that he did not press the issue. The agreement therefore stands unimpeached.

In pursuance of the joint statement of the parties I pass an interim award in the following terms:—

(1) From 1st of March 1948, all the workers employed in tanning (தோல் பதனிடும் எல்லா தொழிலாளர்கட்கு) shall be paid 9 annas per unit as wages and Rs. 16 per mensem as dearness allowance.

(2) To women workers and to male workers aged 17 years and above (ஸ்திரிகளுக்கும், 17 வயதும் அதற்குமேற்பட்ட பிள்ளைகளுக்கும்) wages shall be paid at Rs. 15 per mensem; and dearness allowance at Rs. 16 per mensem shall be paid from 1st of March 1948.

(3) The interim award shall take effect from 1st March 1948 and be in force till the final award of the Tribunal is published by the Government.

Strike notice was cancelled on 21st March 1948.

Order—No. 2426, Development, dated 11th May 1948.

In G.O. Ms. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be

referred for adjudication to an Industrial Tribunal consisting of Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge. Now the Industrial Tribunal has reported that the representatives of the tannery workers of Ambur and the proprietors of tanneries of Ambur filed a joint statement agreeing to an interim arrangement pending the final award in respect of the entire Province and therefore it has passed an interim award in terms of the said joint statement. The Government accept the award and make the following order :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge) constituted under G.O. Ms. No. 6028, Development, dated 23rd December 1947, to adjudicate in the industrial disputes existing between the workers and managements of tanneries in the Province, in respect of the tanneries of Ambur has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the tanneries of Ambur and the workers employed therein and directs that the said award shall come into operation on the 11th May 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the tanneries in the Province is accepted by the Governor, whichever earlier.

2. The Commissioner of Labour is requested to send copies of this order to the management and workers concerned.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XVIII

BEFORE THE INDUSTRIAL TRIBUNAL FOR PRINTING PRESSES IN THE PROVINCE OF MADRAS.

PRESENT :

SRI P. MARKANDEYULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

GODLAND & CO., PRINTERS, MADRAS.

and

TWO WORKERS.

INTERIM AWARD.

Subject—Reinstatement of two compositors.—Held on the evidence that the two workers did not leave the company voluntarily but as a result of the pressure applied to them by the management and that the two workers should be reinstated by the Company.

G.O. Ms. No. 2427, Development, dated 11th May 1948.

[Labour—Disputes—Disputes between the workers and managements of printing presses in the Province—Interim recommendations of the Industrial Tribunal in respect of The Godland and Company (Printers), Madras, and two compositors therein, viz., Messrs. V. K. Subrahmanyan and Chinnaswami—Orders passed.]

READ—the following papers:—

(1)

G.O. Ms. No. 6035, Development, dated 27th December 1947.

(2)

From the Industrial Tribunal for Printing Presses in the Province of Madras, dated 26th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR PRINTING PRESSES IN THE PROVINCE OF MADRAS (CAMP), MADRAS.

PRESENT:

SRI P. MARKANDEYULU, M.A., B.L.

26th day of April 1948.

[In the matter of the industrial dispute between the management and the workers of Godland and Company (Printers), No. 55, Muthumari Chetti street, Georgetown, Madras.]

INTERIM AWARD.

1. Two compositors, V. K. Subrahmanyan and Chinnaswami, working in Godland and Company were discharged by the Manager of the Press on 2nd April 1948 with an offer of a month's wages in lieu of notice and the workers have approached this Tribunal with a request that they may be reinstated in their appointments pending the submission of the final award by this Tribunal.

2. The said Tribunal was constituted by the Government in G.O. Ms. No. 6035, Development, dated 27th December 1947, and the contention of Mr. V. G. Row on behalf of the workers is that the discharge of the two compositors on 2nd April 1948 offends against the provisions of section 33 of the Industrial Disputes Act, 1947, and that I should make an interim award directing that the

two compositors should be taken back into the service of the company till the conclusion of the proceedings before this Tribunal. It is unnecessary to decide this question of law as in my opinion the case can be disposed of on the merits.

3. Godland and Company started their printing business in January 1947 with a capital of about Rs. 32,600 and a staff of about twenty workers. There were four compositors of whom Subrahmanyan and Chinnaswami were the juniormost. Subramanyan has been in the service of the company since 4th August 1947 while Chinnaswami joined the service on 15th September 1947.

4. The case of the management is that they have suffered a loss of Rs. 4,370-5-1 for the fifteen months ending with 31st March 1948 and that they therefore decided to cut down their expenditure by discharging the two compositors in question who were getting a salary of about Rs. 70 per mensem including dearness allowance.

5. The case of the Madras Press Labour Union which represents the discharged workers, on the other hand, is that the two compositors are prominent members of the Labour Union which was started in the company about nine months ago and that these two workers have been victimized for their activities in the Labour Union. The Labour Union does not admit that the company has suffered a loss but asserts on the other hand that it has made a profit of about Rs. 15,000 for the fifteen months ending with 31st March 1948.

6. There is some evidence on record to show that the Labour Union in Godland and Company, of which the two compositors are admittedly members of the Committee, incurred the displeasure of the management by its activities prior to 2nd April 1948, the date on which the two compositors were discharged. One Natarajan, a wheeler in the Press, was suspended for a day in February 1948 by the Manager, Mr. Thomas, and the Labour Union took up his case and demanded that the punishment should be cancelled (vide Exhibit C). Prior to this, on 16th December 1947, the Labour Union had addressed a communication to the management making certain demands and sent a reminder, Exhibit B, dated 23rd December 1947. The management has not replied either to Exhibit C or to Exhibit B. It is therefore probable that the management wanted to get rid of the two inconvenient compositors and that with that object served notice of discharge on them (Exhibits A and A-1).

7. I am not satisfied at this stage that the company has suffered a loss of Rs. 4,370 and odd as alleged by it. Exhibit III filed by the management is only an extract from their account books and is not an auditor's certificate. The registered accountants, who have signed it, definitely use the words " Subject to audit ". Further, it is found from Exhibit III that the management have taken a sum of nearly Rs. 3,000 as interest on capital which cannot

be said to be a loss by any stretch of imagination. It will be open to the management at the time of the final enquiry to show that the company has really suffered a loss for the fifteen months ending with 31st March 1948. It should also be mentioned in this connexion that after the discharge of the two workers the management have engaged extra tradleman on a daily wage of Rs. 1–8–0.

8. It was argued by Mr. Ramanathan on behalf of the management that the two compositors willingly left the service of the company on 2nd April 1948 by agreeing to take a month's salary in lieu of notice and that it is not now open to them to ask for their reinstatement. I accept the evidence of the Manager (Mr. Thomas) to the effect that the two compositors originally declined to leave the service of the company on being tendered fourteen days' wages, that subsequently the other workers intervened and recommended that they should be paid a month's wages and dearness allowance, that thereupon the two compositors agreed to leave the company by taking a month's wages and dearness allowance in lieu of notice, and that in token thereof took the two notices, Exhibits I and I (*a*). I also accept the Manager's evidence to the effect that the two compositors wanted certificates of good character from the management and that they were furnished to them. [See Exhibits II and II (*a*).] All this may be true, but the fact, however, remains that the two compositors, left to themselves, would never have agreed to leave the company voluntarily where they had each been getting a salary of about Rs. 70 per mensem. It must have been the result of pressure applied to them by the management on 2nd April 1948. The two compositors could not have really agreed to leave the company, for they did not take the wages that were tendered to them and also they got the Labour Union to send a notice, Exhibit D, on their behalf on the very same day. In the notice it is stated that the action of the company is illegal and that the two workers should be reinstated. I have therefore no hesitation in holding that the two compositors really and voluntarily did not agree to leave the service of the company.

9. I therefore make an interim award to the effect that the two compositors, V. K. Subramanyan and Chinnaswami, should be taken back by Godland and Company into their service with effect from 2nd April 1948 and that this award shall be in force till the publication of my final award by the Government.

10. There appear to be some other matters in dispute between the management and the workers and the workers have been asked to submit their written statement specifying the matters. These will be adjudicated on in due course.

Order—No. 2427, *Development, dated* 11*th May* 1948.

In G.O. Ms. No. 6035, Development, dated 27th December 1947, the Government directed that the industrial disputes between the workers and managements of all printing presses in the Province

be referred by adjudication to an Industrial Tribunal consisting of Sri P. Markandeyulu, retired Judge, City Civil Court, Madras, for adjudication under sections 7 (1) and (2), read with section 10 (1) (*c*) of the Industrial Disputes Act, 1947. The said Tribunal has now passed an interim award recommending the reinstatement of the two compositors, viz., Messrs. V. K. Subrahmanyan and Chinnaswami, discharged from the services of the Godland and Company (Printers), Madras. The Government accept the award and make the following order :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri P. Markandeyulu, retired Judge, City Civil Court), constituted under G.O. Ms. No. 6035, Development, dated 27th December 1947, to adjudicate the industrial disputes existing between the workers and managements of printing presses in the Province in respect of the dispute between the workers and management of Godland and Company (Printers), Madras, about the discharge of two compositors has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Godland and Company (Printers), Madras, and the workers employed therein and directs that the said award shall come into operation on the 11th May 1948 and remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of printing presses in the Province is enforced by the Government, whichever is earlier.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XIX

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF TANNERIES AT SEMBIAM

and

THE WORKERS.

INTERIM AWARD.

Subject—*Strike during the pendency of adjudication—Validity.*—*Held* that the non-payment of dearness allowance as per

the Interim Award of 9th March 1948 is no justification for going on a strike during the pendency of proceedings before the Tribunal.

Held that the strike is illegal.

G.O. Ms. No. 2591, Development, dated 20th May 1948.

[Labour—Disputes—Dispute between the workers and managements of tanneries in Sembiam area—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers:—

(1)

G.O. No. 6028, Development, dated 23rd December 1947.

G.O. No. 1917, Development, dated 19th April 1948.

(2)

From the Industrial Tribunal of Madura, dated 20th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT:

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal of Madura.

TANNERIES INDUSTRIAL DISPUTE NO. 7 OF 1948.

Between

The Tanners' Association, Sembiam and Madhavaram—*Petitioners*

and

The Tannery Workers of Sembiam and Madhavaram—*Respondents.*

AWARD.

This petition has brought to the notice of the Tribunal that, on the 9th and 10th instant, the workers of the tanneries in Sembiam area struck work without any justification and have contravened the provision of section 23 of the Industrial Disputes Act, as the proceedings are pending before this Tribunal. They pray that appropriate proceedings under Chapter VI of the Act may be taken against them.

Mr. S. Krishnamurthi, Advocate, appearing on behalf of the workers filed a counter-statement. It is admitted that the workers struck work, but it is contended that, as the workers were not paid dearness allowance at the rate of Rs. 16 per mensem as per the Interim Award passed on foot of a joint statement given by the parties before this Tribunal on 9th March 1948, they were justified in striking work and that therefore action could not be taken against them.

The point for determination is:

Whether the workers are not liable to be prosecuted under section 26 of the Industrial Disputes Act of 1947.

I shall assume for the sake of the argument that the tanners are not entitled to go behind the award fixing the dearness allowance of Rs. 16 per mensem for all kinds of workers. If the tanners failed to implement the award, it is up to the workers to bring the matter to the notice of this Tribunal so that necessary action might be taken against them. The workers cannot plead this circumstance as a bar to proceedings being taken against them for acting in defiance of law. Section 23 of the Act lays down that no workman who is employed in any industrial establishment, shall go on strike in breach of contract during the pendency of proceedings before a Tribunal and two months after the conclusion of such proceedings. Under section 24 of the Act, the strike must be held to be illegal. The issue is found accordingly.

Order—No. 2591, Development, dated 20th May 1948.

In G.O. Ms. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge. The Industrial Tribunal passed an interim award in respect of the tanneries in Sembiam and Madhavaram areas and it was accepted by Government and enforced on the parties. As the managements of tanneries did not implement the award in respect of dearness allowance, the workers of tanneries in Sembiam area struck work. The Tribunal has passed another interim award. Th Government accept the award and make the following order:—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge) constituted under G.O. Ms. No. 6028, Development, dated 23rd December 1947 to adjudicate in the industrial disputes existing between the workers and managements of tanneries in the Province, in respect of the tanneries in Sembiam area has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the tanneries in Sembiam area and the workers employed therein and directs that the said award shall come into operation on the 20th May 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the tanneries in the Province is accepted by the Government whichever is earlier.

2. The Commissioner of Labour is requested to send copies of this order to the management and workers concerned.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XX

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF TANNERIES IN SEMBIAM AND MADAVARAM

and

THE WORKERS.

INTERIM AWARD.

Subject—1. *Dearness allowance to unskilled workers—Whether to be paid proportionately.*—*Held* that as per the joint statement originally filed before the Tribunal, dearness allowance of Rs. 16 should be paid in all cases and that section 92, Evidence Act, is a bar to any contention in variation.

2. *Whether the workers who have no work in one department should not be asked to work in another department, but paid the wages for the day.*—*Held* that worker must do any work allotted to him by the employer.

G.O. Ms. No. 2592, Development, dated 20th May 1948.

[Labour—Disputes—Disputes between the workers and managements of tanneries in Sembiam and Madhavaram areas, Chingleput district—Interim recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 6028, Development, dated 23rd December 1947.

G.O. No. 1947, Development, dated 19th April 1948.

(2)

From the Industrial Tribunal of Madura, dated 9th March 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal of Madura

TANNERIES INDUSTRIAL DISPUTES NO. 8 OF 1948.

Between

Madhavaram Tanners' Association, Madhavaram—*Petitioners*

and

The workers of Sembiam and Madhavaram Tanneries—*Respondents.*

AWARD.

The petitioners allege that certain clauses of the joint statement filed by the parties before this Tribunal on 9th March 1948 require clarification.

The workers oppose this application.

In the joint statement, on foot of which an award has been passed by me, there are five clauses. Clause 2 runs thus : " All tannery owners at Sembiam and Madhavaram areas who have not paid dearness allowance at the rate of Rs. 16 per mensem agree to pay dearness allowance at the above rate from 1st March 1948."

The case of the petitioners, that is, tanners, is that the Rs. 16 rate of dearness allowance was intended to apply only to skilled workers and that " the amount of the dearness allowance payable to other category of workers must be worked out in proportion to the wages that they receive, that the arithmetical calculations was reserved to be worked out with reference to the several category of workers and that consequently the figures were not mentioned with regard to them."

On behalf of the workers, the respondents, it is contended that no such reservation was intended and that the terms contained in that clause are definite.

I shall now consider whether the clause in question requires to be clarified and whether the petitioners are entitled to go behind the terms mentioned in the clause and add to or supplement the provisions contained in it.

The clause in question, in definite and clear terms, recites that dearness allowance at Rs. 16 should be paid in *all* cases where the dearness allowance paid falls short of Rs. 16. Section 92 of the Indian Evidence Act precludes the admissibility of any evidence to contradict or vary the specific and clear terms of a written contract. There is absolutely no ambiguity in the wording of the clause. The Court is not warranted in embarking on an investigation as regards what was at the back of the mind of the contracting parties and what their intention was at the time when the contract was reduced to writing. Extraneous circumstances could not be called in aid to consider whether the agreement was natural and probable. If the tanners had not agreed to give dearness allowance at the uniform rate of Rs. 16 to all categories of workers, nothing prevented them from stating so expressly in the written contract to which categories of workers the Rs. 16 rate should apply and to which categories of workers lesser rates should apply. I hold that section 92 of the Indian Evidence Act is a bar to their present pleading.

There is also a controversy with regard to clause 4 of the joint statement, the basis of the award. That clause relates to the unit of work. It runs thus :

" All tannery owners agree to provide at least one unit of work every day to all workers who report for duty in default thereof to pay

wage for one unit of work and the day's dearness allowance to all workers."

It is common ground that in a tannery there are different types or branches of work and that with regard to a work, which requires skilled labour only persons working in the particular branch are usually employed. It cannot however be denied that, if there is not sufficient work in a department which requires skilled labour, such of the skilled workers as are left unemployed for the day can be allotted work in another department where skilled labour is not necessary. The case of the workers is that when there is not sufficient work for any workers in the department in which they usually work, they should not be asked by the employers to work in any other department on that day, but should be paid the wages and dearness allowance for the day. To interpret the clause in questiion, neither party can be allowed to stray beyond what is warranted by the actual words occurring in the clause embodying in the contract. The clause in question simply says that if the employer is not able to find work for any worker who turns up for duty, he must be paid the wages and dearness allowance for the day. The clause only imposes on the employer to pay the workers, if he could not find work for them. It does not say that he should pay them if he could not find for them work in the particular branch where he was working all along. The clause does not restrict the discretion of the employer to allot any work he likes. The court cannot supplement the terms of the contract found embodied in the clause and declare that a worker should be paid in case the employer is not able on any day to allot the particular kind of work usually attended to by him.

In the result, I hold that as per clause 2 of the joint statement that all workers, to whatever category they may belong, are entitled to dearness allowance at the rate of Rs. 16 per mensem and that any worker who turns up for duty on a particular day must do any work allotted to him by the employer and cannot question his discretion. The two clauses need no clarification. The petition is dismissed.

Order—No. 2592, Development, dated 20th May 1948.

In G.O. Ms. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be referred for adjudication to an industrial tribunal consisting of Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge. The industrial tribunal first passed an interim award in respect of the workers and managements of tanneries in Sembiam and Madhavaram areas which was accepted by Government and enforced on the parties. As a dispute arose between the parties on the interpretation of the interim award, the tribunal has passed

another interim award. The Government accept the award and make the folowing order :—

ORDER.

Whereas the interim award of the industrial tribunal (Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge) constituted under G.O. Ms. No. 6028, Devolpment, dated 23rd December 1947, to adjudicate in the industrial disputes existing between the workers and managements of tanneries in the Province, in respect of the tanneries in Sembiam and Madhavaram areas has been received;

Now, therefore, in exercise of the award conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the tanneries in Sembiam and Madhavaram areas and the workers employed therein and directs that the said award shall come into operation on the 20th May 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the tanneries in the province is accepted by the Government whichever is earlier.

2. The Commissioner of Labour is requested to send copies of this order to the managements and workers concerned.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXI

BEFORE THE INDUSTRIAL TRIBUNAL OF MADRAS.

SRI M. VENKATARAMAYYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE BURMAH-SHELL OIL STORAGE AND DISTRIBUTING COMPANY OF INDIA, LIMITED, MADRAS

and

THE WORKERS.

Subject.—Award in terms of the memorandum of agreement.

G.O. Ms. No. 2593, Development, dated 20th May 1948.

[Labour—Disputes—Dispute between the workers and management of the Burmah-Shell Oil Storage and Distributing Company of India, Limited, Madras—Agreement of the parties regarding the time-scale of increment subsequent to the original award—Made part of the original award.]

READ—the following papers :—

(1)

G.O. Ms. No. 5876, Development, dated 19th December 1947.

(2)

Letter from Sri Rao Bahadur M. Venkataramayya, B.A., B.L., Industrial Tribunal, Madras, to the Secretary to Government, Development Department, dated the 30th April 1948, *No. I.D.* 12/47.

[Industrial dispute between the workers and management of the Burmah-Shell Oil Storage and Distributing Company of India, Limited, Madras—Award—Scales of pay—Increments—Agreement—Reported.]

In the above dispute an award was submitted to Government upon which Government passed orders as per G.O. Ms. No. 5876, Development, dated 19th December 1947.

In that award it was stipulated that the parties should arrive at a settlement concerning the increments. Both parties have now filed an agreement, copy of which is enclosed.

I request that this may be made part of the award already submitted to Government.

ENCLOSURE.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

RAO BAHADUR M. VENKATARAMAIYA, B.A., B.L.

[In the matter of the Industrial Disputes Act, 1947, and in the matter of an industrial dispute between the Burmah-Shell Oil Storage and Distributing Company of India, Limited, Madras, and certain of its workers.]

MEMORANDUM OF AGREEMENT.

In compliance with section 10 of the award of the Industrial Tribunal, Madras, made binding on the management of the Burmah-Shell Oil Storage and Distributing Company of India, Limited, Madras, and the workers employed therein, by G.O. Ms. No. 5876, Development, dated 19th December 1947, both parties to the dispute have discussed the question of an increment scale and have reached the following agreement :—

(1) That increments shall be conditional upon satisfactory service and conduct.

(2) That the normal spread between the minimum and maximum wage rates already agreed between management and union and embodied in the above award, should be ten years; in other words a workman whose

work and conduct are satisfactory should proceed in the normal course of events from the minimum laid down for his grade to the maximum, in a period of ten years.

(3) Increments due in 1948 will be paid out on the basis of the above principles. The management agree to the union's request that individual cases of hardship should be sympathetically considered.

(4) This agreement will bind both parties as part of the award and shall be co-terminous with the award.

Order—No. 2593, Development, dated 20th May 1948.

The dispute between the workers and the management of the Burmah-Shell Oil Storage and Distributing Company of India, Limited, was referred to the Industrial Tribunal, Madras, in G.O. Ms. No. 4910, Development, dated 16th October 1947. The Industrial Tribunal passed an award, which was made binding on the parties in G.O. Ms. No. 5876, Development, dated 19th December 1947, for a period of one year from 19th December 1947. In paragraph 10 of the said award the tribunal has stated that both sides represented to the tribunal that the time-scale of increment would be clarified and a memorandum filed after the parties discussed the matter and arrived at a settlement. Now the tribunal has forwarded a copy of the agreement arrived at by the parties as aforesaid with a request that it may be made part of the original award.

ORDER.

Whereas the award of the Industrial Tribunal, Madras, in respect of the dispute between the workers and the management of the Burmah-Shell Oil Storage and Distributing Company of India, Limited, Madras, was declared binding on the parties in G.O. Ms. No. 5876, Development, dated the 19th December 1947, for a period of one year from the 19th December 1947;

And whereas paragraph 10 of the said award provided for the filing of a memorandum in respect of increments after the parties should have discussed the matter and arrived at a settlement;

And whereas in pursuance of the said paragraph 10, the parties have arrived at an agreement, a copy of which has been forwarded by the Industrial Tribunal;

Now, therefore, His Excellency the Governor of Madras hereby directs that the said agreement shall form part of and shall always be deemed to have formed part of the said award.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

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XXII

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

SRI M. VENKATARAMAYYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF CIGAR FACTORIES IN MADRAS CITY

and

THE WORKERS.

Dr. V. K. JOHN AND C. S. VARADACHARI, Advocates—*for the Management*.

Messrs. ROW AND REDDY, advocates and SRI K. PRABHU, President of the Union—*for the workers*.

Subject—1. *Whether the workers in cigar factories are mere contractors and not workers*.—Held that by the nature of their work, they are piece-rate workers and not contractors.

2. *Wages—Whether should be increased*.—*Held* that each worker can produce 1,000 cigars a day and on that basis increased piece-rate fixed for the different brands of cigars.

Held that the payment of wages should be by the week.

Held on examination of accounts that the industry can bear the increased wages.

3. *Dearness allowance—Whether should be paid*.—*Held* that the dearness allowance should be paid if the cost of living index goes above 300 at the rate of two annas per point above 300.

4. *House rent allowance*.—Refused.

5. *Bonus*.—*Held* that all companies except Indian Tobacco Company should pay one month's earnings as bonus.

6. *Provident fund and gratuity*.—*Held* that the companies are too small for any such system of provident fund or gratuity to be made obligatory.

7. *Gratuity to child workers*.—*Held* that the law prevents employment of children and the proprietor cannot be compelled to give gratuity while dispensing with their services.

8. *Leave*.—*Held* that weekly holiday should be observed and in addition ten days recuperative leave should be given.

9. *Scissors for workmen*.—*Held* that the Company should provide scissors to all the workers.

10. *Standing orders*.—*Held* that the proprietors are not sufficiently well informed into draft rules and the Labour Officer should be requested to assist them.

11. *Confirmation in service.*—*Held* that the whole industry has been unorganized and that steps should be taken to bring them into working order. Any worker who has put in one year's service must be deemed to be permanent.

12. *Compensation for involuntary unemployment.*—*Held* that the employer should pay one rupee for each day on which they are unable to provide work for their permanent employees.

13. *Canteens, water taps, etc.*—*Held* that under present conditions proprietors cannot afford it.

14. *Sweepers.*—*Held* that the factory should employ at least one sweeper and the workers should not be asked to do it.

15. *Uniforms.*—Claim negatived.

16. *Reinstatement of six workers in Vinayagar Mark Company.*—*Held* that these men should be reinstated if they turn up for work within two weeks of the award.

17. *Whether the stoppage of dearness allowance by Indian Tobacco Company justified.*—*Held* that there was no such stoppage.

G.O. Ms. No. 2594, Development, dated 20th May 1948.

[Labour—Disputes—Dispute between the workers and managements of Cigar Factories in Madras City—Recommendations of the Industrial Tribunal—Madras—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 5680, Development, dated 9th December 1947.

(2)

From the Industrial Tribunal, Madras, dated 10th May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

SRI M. VENKATARAMAYYA, B.A., B.L.

INDUSTRIAL DISPUTE NO. 24 OF 1947.

[In the matter of the industrial dispute between the workers and managements of cigar factories in Madras City.]

AWARD.

1. The industrial dispute between the workers and managements of certain cigar factories in Madras was referred to me for adjudication in G.O. Ms. No. 5680, Development, dated the 9th December 1947.

2. Dr. V. K. John and Mr. C. S. Varadachari, advocates, appeared for the managements and Messrs. Rao & Reddy, advocates, appeared for the Madras Cigar Workers' Union and Mr. K. Prabhu for the Madras District Cigar Workers' Union.

3. There are seven cigar factories involved in this dispute. Of these one which is called the Photo. Mark Cigar Company has been closed and is no longer working. Shanmugham Mark Cigar Company has five workers only and nobody turned up on behalf of them. Iyanar Cigar Factory proprietor appeared and he was a worker in the Indian Tobacco Company who has transformed himself as a proprietor of the factory and there are three workers in it. All the other four factories have been represented and the proprietors or their representatives have attended the sittings during the enquiry. Among these four the Indian Tobacco Company stands apart and it is an admitted fact that it is an experimental project and has not yet begun to earn profits.

4. Dr. John's arguments centred mainly on one point and that is this: the cigar factories are really not factories employing workmen but that the relationship between the proprietor and the "so-called" worker is that of a contractor and a contractee. It is stated that the workers come and go at any time they like, that they are paid so much per 1,000 cigars which they make and that therefore there is no relationship of employer and employee. There is not much difficulty in refuting this argument.

5. Mr. P. G. Manikya Chetti as P.W. 1 has admitted that he opens his factory which is also his godown at 8 a.m. and from 8 to 11 am. all the 40 men will turn up and he closes the doors between 5-30 and 6 p.m. If he allows people to come at 11 a.m. it is his fault, viz., that he does not care to observe regular hours and is not a capable factory manager. It has been elicited that a man can come even at 4 p.m. and he will be given work. How much can a man work between 4 p.m. and 5-30 p.m. one can easily understand. I do not believe that he really allows a man to come as late as 4 p.m. He does not, he says, keep an attendance register. Workmen are not to be blamed for this. Registers produced show that the same set of workmen go in every day and they hand over the cigars they make and receive payment and all these go on day after day. It is a regular factory in which a definite number of men are employed.

6. The next witness Sri S. Parthasarathy does not pretend to support Dr. John's arguments at all. His evidence shows that he clearly understands the relationship of an employer and employee to exist. P.W. 3, Govindaswami Chetti, simply calls these workers "coolies" and produces a register, Exhibit III, which he calls "Coolie Pass Book." These workers are helped by persons who are called "helpers", and Govindasami Chetti says that Ramanujam was a worker and he was not dismissed but he went away during the witness's absence. It is clear from the evidence of these witnesses themselves and also from the records and registers produced that the companies in question are regular factories. In the godowns are stored tobacco and in the factories they manufacture cigars by employing workmen who come to the factory in the morning and go away in the evening and they are paid a definite wage. If

Dr. John's arguments are to be upheld in a matter like this it would mean that every piece-rate worker is a contractor. I do not think I should labour on this point further than by saying that it is clearly established that the proprietors of factories are employers and the workmen therein are employees getting regular salaries. Payments are made according to the quantity produced, and the men cannot take away the tobacco to their houses to make the cigars.

7. The cigar industry in the Madras Province was the subject of investigation by a Court of Enquiry, Dr. B. V. Narayanaswami Nayudu, whose report to Government was made in May 1947. His report was approved by the Government who issued G.O. Ms. No. 3166, dated the 20th January 1947. By the above Government Order Government commended the recommendations of the Court of Enquiry to all the managements and desired that they should be given effect to. Among the recommendations were that the hours of work should be limited to 8, that children below 15 years should not be employed, that the system of paying advances should be prohibited, and that with regard to the wages certain increases should be given over the prevailing wages in January 1947.

8. The report of the Court of Enquiry has given a good description of the conditions under which the workers have to carry on their work in the cigar factories. It is enough to say that the cigar factories are not merely unclean but they are ill-ventilated and many of them should at once be asked to find better and healthier places. In fact it has been mentioned before me that in some of the factories the floors are not even swept. The conditions under which the workers are working are certainly very unwholesome. Tobacco itself, by its very nature, is not a commodity to be dealt with in a very pleasant manner for a length of time and if the surrounding conditions are equally uncomfortable it should be said that unwholesome conditions exist in the place of work. This should be remedied and it is for the Factories Department to look to this and now that the Non-Power Factories Act has come into force there should be no legal disability for the Factories Department to better the conditions of workers.

Issue 1.—Whether the rate of wages to the cigar workers is too low and if so, what rate is reasonable? Whether wages and salaries should be paid monthly or fortnightly or daily.

9. In the seven factories with which we are concerned there are only three brands of cigars manufactured and they are M.O. I, M.O. II and M.O. III and the India Tobacco Company alone manufactures other brands of superior quality. I should only refer to what Mr. Narayanaswami Nayudu has stated in his report to show that the existing rates of wages is low. Small increases have been given from time to time but certainly not adequate.

(i) Brand: 3 for 6 pies—Duty paid—non-taxable—Rate at present is Rs. 1-9-0 per 1,000.

(ii) Brand: 4 for 1 anna—Duty paid—taxable—Rs. 1-12-0 per 1,000.

(iii) Brand: 3 for 1 anna—Duty paid—taxable—Rs. 2 per 1,000.

(iv) Brand: 2 for 1 anna—Duty paid—taxable—Rs. 3 per 1,000.

The last brand is not manufactured by all the companies. In the case of the above brands the Indian Tobacco Company pays Rs. 1-12-0, Rs. 2, Rs. 2-4-0 and Rs. 4, respectively.

10. In 1942 the wages were (for the first three brands) 9 annas, 15 annas and Rs. 1-2-0 and the present rates are Rs. 1-9-0, Rs. 1-12-0 and Rs. 2, respectively. The increase has not been too small but the profits have also been unusually high. Mr. Narayanaswami Nayudu at page 73 of his report recommended an increase by 20 per cent in the case of some, 25 per cent in the case of some other brands and 30 per cent in the case of some others, and it has been stressed before me that upon the calculations made by Dr. Narayanaswami Nayudu, the average earnings of a cigar worker is Rs. 1-2-0 and if the 20 per cent is added to it, it will be Rs. 1-5-6 and they are now paid much more than what he recommended. It is a fallacy. What Mr. Narayanaswamy Nayudu did was to recommend something over and above what the workers were getting on the 1st January 1947. Moreover, in the case of the cigar workers there is another factor to be taken into account. It is not the worker alone who produces the cigars. When the proprietor hands over a certain quantity of tobacco as well as the filler to the worker, the latter gets the help of one or two boys who help him in the work and who are called "helpers." To these boys the worker himself pays and the proprietor has nothing to do with them. So Mr. Narayanaswamy Nayudu's observation was confined to what was being paid to the worker and the union demands that where a man is being paid Re. 1-9-0 he should be paid Rs. 2-10-0. I cannot see much reason in this exaggerated demand. The workers have been getting increases from time to time and though it may not be adequate there is no reason to raise Rs. 1-9-0 to Rs. 2-10-0. A worker with one helper can manufacture about 1,500 cigars a day. It has been brought to my notice and the registers also show that on certain days the workmen were able to deliver as much as 2,000 cigars a day. But they do not show how many helpers the worker had to deliver the 2,000 cigars. It may be taken on the average that a worker with one helper can produce 1,500. Mr. Narayanaswami Nayudu observed at page 66 of his report that "a person of average ability can normally roll 750 country cheroots without any assistance from other adults or boys." In view of the actual record showing the production, I think it will be safe to hold that every worker of average ability should be able to roll 1,000 cigars a day without any assitance,

11. Another disturbing factor is that the workers do not get work for all the days in the month. They can find work only for about 20 days, but this has to be remedied by the proprietors and to prevent this the employer must be made to pay some amount to the workers during the days when he will not be able to give work to them. This is the subject-matter of issue No. XI and even here I wish to recommend that on those days on which the workers are not given work they should be paid Re. 1 each, and this is also Mr. Narayanaswami Nayudu's recommendation. Therefore in fixing the rate one has to take into consideration only what amount of work, a man unaided by helper can do in one day and I fix accordingly the following rates for the different brands :—

		RS.	A.	P.	
1 Six	for one-anna brand	1	12	0	per 1,000
2 Four	do.	2	0	0	
3 Three	do.	2	4	0	
4 Two	do.	4	0	0	

It should also be remembered that in 1947 the size of cigars has been reduced for several reasons, i.e., they have become thinner. The reason for my not giving a higher rate of increase is also due to other factors. The duty on tobacco has been increased and also the tax. The duty is now Rs. 2–8–0 per 1,000 cigars of the quarter-anna brand and for the half-anna brand the tax is as much as Rs. 5 per 1,000. The new rates recommended herein will come into force from the date on which the award is accepted and published by Government.

12. The union demands that the wages should be paid every fortnight while some of the workers wanted to be paid by the month. At present they are being paid daily. I am not quite sure what is the consensus of opinion among the workers. Payment by the week to the workers of this description is the best method and I recommend the same accordingly.

13. On the question whether the industry can bear the additional burden of wages I am satisfied that what I have recommended is not too high. The average sale of cigars per month between March 1947 and March 1948 is nearly 10 lakhs in one factory (vide Exhibit A). Even taking the average price to be Rs. 12 per 1,000 the total amount received by sale is Rs. 12,000. The amount they are spending on labour taking it to be Rs. 2 per 1,000 on the average is Rs. 2,000. There is thus a large margin of profit. Even according to their own figures the factories make a profit of more than Re. 1 per 1,000 (vide Exhibit T). Copy of the statements filed before the Inspector of Central Excise gives details about the price structure for 1,000 cigars of four brands. For the non-taxable variety the production value is Rs. 6–7–6 and the value of 1,000 cigars is Rs. 7. Similarly in respect of the other three brands the margin of profit is noted as 8 annas, 10 annas and 6 annas but the items making up the cost of production do not

appear to be quite correct. The price of tobacco is put at a very high rate. In the course of arguments I was given the following figures :—

	RS. A. P.	
Price of wrapper for 1,000 cigars	4 14 0	(Re. 1–8–0 per lb.)
Filler	6 0 0	
Packing charges	0 6 0	
Labour	1 12 0	
Total ..	13 0 0	

And this brand must be selling for much higher than Rs. 13 though they are said to be selling at Rs. 12–8–0 per thousand. This shows the unreliability of the data furnished by managements. On the other hand on behalf of the workmen the figures given were Rs. 6–7–0 for tobacco, wages Rs. 1–12–0, packing Re. 0–8–0 and tax Rs. 2–8–0 making a total of Rs. 11–3–0 and this is sold at Rs. 13 per 1,000. It means there is a profit of Rs. 1–13–0 per 1,000 cigars and it is also represented that the ribs of tobacco leaves got out of these are also sold and the income therefrom is Re. 1 per 1,000 ribs.

14. Another statement filed by Mr. Manikam Chetti, Exhibit II, shows the productive value as well as the value of 1,000 cigars of a number of brands. In all these the margin of profit per 1,000 is between eight annas and one rupee. Assuming that this is correct, according to my calculations, the country cheroots will fetch a profit of very nearly six annas to eight annas even by the increase in the wages. Surely they can bear this.

15. The margin of profits will be very large in some other cases as the costly brands will fetch larger profits but even in the country cheroots brands which I have noted above no owner of a factory can get less than Rs. 500 a month as net profits after paying the wages as indicated above.

Issue II.—Whether the cigar manufacturers are paying dearness allowance and if not, what is the dearness allowance that should be paid.

16. The cigar manufacturers with whom I am now concerned are not of such standing or status that they should be bracketed with companies like Spencer's and McDowell who are also cigar manufacturers. The bigger companies pay a dearness allowance of Rs. 16 or so to their workers but in the factories now in question the number of men employed does not exceed 50 in any one (the Indian Tobacco Company, Limited, excepted). I, therefore, agree with the reasons and conclusions of Mr. Narayanaswami Nayudu and direct that a dearness allowance should be paid if the cost of living index goes above 300 and the rate will be two annas per point above 300.

Issue III.—Whether house rent allowance should be paid.

17. This is not a case where I should recommend the grant of a house rent allowance. The factories concerned cannot bear this expenditure.

Issue IV.—Whether bonus should be paid and on what basis. (a) Whether Independence Day bonus should be paid.

18. All the companies are making profits excepting the Indian Tobacco Company, Limited, and therefore they except Indian Tobacco Company should pay one month's earnings as bonus within one month from the date of the acceptance of the award by Government.

19. At this late hour I do not propose to make any direction concerning the Independence Day bonus and there is no evidence before me as to who have paid or who have not paid it.

Issue V.—Whether the cigar companies should be compelled to introduce a scheme for provident fund and gratuity.

20. For the reasons already mentioned these companies are too small for any such system of provident fund or gratuity to be made obligatory on them.

Issue VI.—Whether gratuity should be paid to child workers when they are sent out.

21. The child workers should no longer be employed by the cigar factories. As for gratuity to be paid to them this is a thing for the proprietor and I cannot see my way to compel them to give gratuity when dispensing with the services of children. They will be only too glad to employ the children but the law prevents it.

Issue VII.—What period of leave should be given to workers in the cigar factories, as (i) privilege leave, (ii) for sickness and (iii) festivals.

22. As long as these factories are made to run in an organized and regular manner in conformity with modern concepts of labour welfare, leave must be given but at present no leave at all is given. Sunday is a weekly holiday and must be observed as such. In addition the 10 days recuperative leave under the Holidays With Pay Act, 1946 must be given. For the present this recommendation will do in respect of these firms.

Issue VIII.—Whether the companies should provide scissors to the workmen.

23. Scissors must be provided by the proprietors of factories to all the workers. They represent that the workers take away the scissors and ask for replacements frequently. Scissors must be kept as a good instrument for cutting and must therefore be sharpened at intervals of time. Each workman shall be given a pair of scissors once a year and the sharpening shall be done not less than three times a year.

Issue IX.—Whether the companies should frame standing orders and on what basis.

24. The question of framing standing orders must be considered by the Commissioner of Labour. The Labour Officers have to insist upon getting standing orders drafted by the companies concerned and approved by the Commissioner of Labour. The proprietors of these companies do not appear to be sufficiently well informed to draft the rules and hence the Labour Officer may be requested to help them in drafting them.

Issue X.—What length of service will be enough to make the worker permanent.

25. Regular attendance registers must be kept showing the number of permanent hands. Any worker who has put in a service of one year must be deemed to be permanent. The maintaining of attendance register must be made compulsory and must be inspected by the Inspectors of Factories now and then to see that there is not a large labour turnover. As a matter of fact the witnesses have mentioned that there are workers who have been continuously in service for ten years while some of the workers have put in two or three years of service. As until now the whole industry has been in an unorganized manner, steps should be taken now to bring them into working order by maintaining regular registers showing attendance, the hours of work for each worker, the amount of wages paid, the work turned out by each worker, the amount of leave taken, etc.

Issue XI.—What provision should be made for affording employment to workers during the whole month.

26. The employers should pay to the workers rupee one for each day on which they are unable to provide work to the permanent employees.

Issue XII.—Whether canteens, water taps, tiffin sheds, etc., should be provided.

27. Rest interval must be given to all the workers of at least one hour and I think under the present conditions it will not be possible for the proprietors of these cigar factories to provide canteens, tiffin sheds, etc.

Issue XIII.—Whether the companies should not be compelled to employ sweepers to clean the floor.

28. Every factory should employ at least one sweeper to clean the floor. This is not a work which the workers should be asked to do.

Issue XIV.—Whether uniform should be supplied to the workers.

29. I cannot find reason in this demand that uniform should be supplied to all the workers.

Issue XV.—Whether Arumugam and Ramachandran were wrongfully dismissed and should be reinstated. (Specific to Photo Mark Cigar Company.)

30. The Photo Mark Cigar Company has closed down and therefore no finding is necessary on the issue whether the two workers of that company were wrongfully dismissed.

Issue XVI.—Whether Ramanujulu was wrongly dismissed and should be reinstated. Also Parasuram, Sabapathi, Ganapathi, Thulukeni, and Dhanushkoti should be reinstated. (Special to Vinayagar Mark Cigar Company.)

31. The above six people were workers in the Vinayagar Cigar Factory. They complain they were wrongfully dismissed. Mr. Govindaswami Chetti, the Manager of the Vinayagar Factory, says that none of them were dismissed. It is said that Dhanushkodi did not turn up for work when the factory was reopened after having been closed down for some time in July 1947. The other people also were said to have stopped away on their own accord. The direction I give therefore is that if these men turn up for work within two weeks after the publication of this award they shall be taken back and if they fail to do so within the two weeks after publication they need not be taken.

Issue XVII.—Whether stoppage of dearness allowance and wages for 15th and 16th August 1947 by the Indian Tobacco Company is valid and justifiable.

32. The Indian Tobacco Company was closed on the 15th August as a holiday for the Indian Independence Day celebrations. Mr. Parthasarathy for the company said that the workers worked on the 16th and were paid their wages for that day. I am unable to understand how there can be any demand for the wages for the 15th. For the 15th August he said he offered Rs. 5 to each worker but they were not willing to receive it. There is a misapprehension in the minds of the workers that he stopped payment of the dearness allowance which he was giving. What Mr. Parthasarathi says is that the factory was working in Guindy and was removed to Aminjikarai. For a short time after the shifting of the factory in order to enable the workers to continue to work at Aminjikarai and to compensate them for the train fare or bus fare, etc., he was giving them a monthly allowance of Rs. 5 until they established themselves in Aminjikarai. After they established themselves in Aminjikarai he stopped the payment of the Rs. 5, and I think it is perfectly reasonable. The issue as it stands makes a presumption as if the dearness allowance was stopped. The assumption is wrong and I find that dearness allowance was not paid and was not stopped

Order—No. 2594, Development, dated 20th May 1948.

Whereas the award of the Industrial Tribunal, Madras, in respect of the industrial disputes between the workers and managements of the Cigar Factories in Madras City has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of all the cigar factories in Madras City and the workers employed therein and directs that the said award shall come into operation on the 20th day of May 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXIII

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF NIZAR AHMED & CO., MADHAVARAM

and

THE WORKERS.

Subject—Reinstatement of two workers.—Held that no orders were necessary as one was reinstated and the other agreed to take 14 days' wages in lieu of reinstatement.

G.O. Ms. No. 2597, Development, dated 20th May 1948.

[Labour—Disputes—Dispute between the workers and management of Nizar Ahmed & Co., Tannery, Madhavaram, Chingleput district—Interim recommendations of the Industrial tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 6028, Development, dated 23rd December 1947.

(2)

From the Industrial Tribunal, Madura, dated 17th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 5 OF 1948 (TANNERIES.)

Between

Narayanan and Thoppalan, workers of Nizar Ahmed & Co., Madhavaram,

and

Nizar Ahmed & Co., Madhavaram.

INTERIM AWARD.

The complaint is that the workers, Narayanan and Thoppalan, were dismissed on 3rd March 1948 and on 4th March 1948, respectively, by Nizar Ahmed & Co., Madhavaram, without lawful grounds and they prayed that they should be reinstated.

At the time of the hearing it was admitted that Thoppalan had been reinstated.

Narayanan offered to give his claim for reinstatement if the proprietor would pay him 14 days' salary and he made a sworn statement to that effect. On the next day, i.e., 16th April 1948, the proprietor paid Narayanan Rs. 8–6–6, the wages for the fourteen days and the amount was accepted. There is no further relief prayed for in the petition. The petition is therefore dismissed as unnecessary. Narayanan stated that there were other outstanding items of claim against the proprietor. Without prejudice to his filing a separate petition in respect of those claims, the above order is passed. When such claims are put forward, the proprietor can state his objections to them.

Order—No. 2597, Development, dated 20th May 1948.

In G.O. Ms. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge. Now the Industrial Tribunal has passed an interim award in respect of the dispute between the workers and management of Nizar Ahmed & Co., Tannery, Madhavaram, Chingleput district. The Government accept the award and make the following order.

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge) constituted under G.O. Ms. No. 6028, Development, dated 23rd December 1947, to adjudicate in the industrial disputes existing between the workers and managements of tanneries in the Province, in respect of the dispute between the workers and management of Nizar Ahmed & Co., Madhavaram, Chingleput district, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2), read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Nizar Ahmed & Co., Tannery, Madhavaram, Chingleput district, and the workers employed therein and directs that the said award shall come into operation on the 20th May 1948 and shall remain in force for a period of one year or till the

final award in respect of the disputes between the workers and managements of the tanneries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXIV

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE INDIAN STEEL ROLLING MILLS, LTD., NEGAPATAM

and

THE WORKERS.

Award in terms of the compromise.

G.O. Ms. No. 2598, Development, dated 21st May 1948.

[Labour—Dispute—Dispute between the workers and management of the Indian Steel Rolling Mills, Limited, Negapatam —Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 101, Development, dated 28th January 1948.

(2)

From the Industrial Tribunal of Madura, dated 27th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI AVARGAL, B.A., B.L.,
Industrial Tribunal of Madura.

INDUSTRIAL DISPUTE NO. 4 OF 1948.

Between

The Negapatam Steel Rolling Mill Workers' Union, Negapatam

and

The Management of the Indian Steel Rolling Mills, Negapatam.

[*Reference.—G.O. Ms. No.* 401, *Development, dated* 28*th January* 1948.]

AWARD.

1. As the disputes between the parties could not be settled amicably the dispute was referred to this tribunal as per G.O. Ms. No. 401, Development, dated 28th January 1948, for adjudication. On 11th March 1948 the president of workers' union filed a memorandum mentioning 18 items of demands. They related to wages, dearness allowance, bonus, provident fund, gratuity, leave facilities, involuntary unemployment, permanency of the service, co-operative stores, heat bonus, dress, vacancies, stock-yard, reinstatement of worker Sundaramurthi, house rent allowance, production bonus. They claim for payment retrospectively.

2. The management filed their answer to the various demands.

3. The following issues were settled :—

(1) Whether the present wage rates are inadequate and should be revised and, if so, what will be the proper rates.

(a) Whether the company's financial position cannot permit any increase or revision of the scale of wages.

(b) Whether the present grading of workers is not proper and whether any regarding or reclassification is called for.

(2) What will be the proper rate of dearness allowance?

(3) Whether the workers are entitled to any and what bonus.

(4) Whether there can be any increase in the rate of company's contribution for workers' provident fund.

(5) Whether any directions are necessary as regards gratuity scheme.

(6) Whether any change as regards leave facilities are called for.

(7) Whether the workers should be allowed any and what rate of wages on days on which no work could be found.

(8) What directions are necessary with regard to secure permanency of service?

(9) Whether the company should be directed to provide dress and boots for all classes of workers.

(10) Whether the demand for heat bonus is justifiable.

(11) Whether the company should open a co-operative store.

(12) Whether the company should be compelled to provide for the workers' sons and whether their discretion in the matter can be restricted.

(13) Whether all correspondence should be in Tamil.

(14) Whether there is not sufficient shelter in the stock-yard.

(15) Whether the worker Sundaramurthi is entitled to be reinstated.

(16) Whether any directions are necessary with regard to the housing of workers.

(17) Whether the claim for production bonus is justifiable.

(18) Whether any direction given should have retrospective effect.

4. The parties stated that they were not examining any witnesses but addressed arguments. After the case was partially argued, the parties agreed to settle their differences and presented before me a memorandum of compromise on 24th April 1948.

5. The terms of the compromise run as follows :—

(1) This memorandum of compromise will be effective and operative as regards clauses 2 and 3 from the 1st January 1948 and as regards clauses 6 and 7 from the 1st April 1948.

(2) The management hereby agree to increase the rates of wages of the low-paid employees as follows :—

(*a*) Daily-rated monthly paid employees (excluding billet khalasies and coal khalasies) who are drawing a daily wage of less than Re. 1 will be allowed to draw Re. 1.

(*b*) About 50 per cent of the weeklies to be converted as monthlies on Rs. 0–13–0—0–1–0—1–0–0.

N.B.—Such of those so converted who have been drawing Re. 0–9–0 for a year and over will draw Re. 0–14–0 in the scale.

This grade will apply to billet and coal khalasies also.

(*c*) The other 50 per cent of the weeklies will be on a grade of Re. 0–10–0—0–1–0—0–12–0.

N.B.—Such of the weeklies who have been drawing As. 9 for a year and over will draw Re. 0–11–0 in the scale.

(3) Dearness allowance will be at Rs. 25 per mensem or 17½ per cent, whichever is higher, for all the employees except the office staff.

The office staff will get Rs. 30 per month or 17½ per cent, whichever is higher.

(4) Special bonus—One month's basic pay equivalent to that drawn on 31st December 1947. For daily-rated men month means 26 days.

(5) Independence bonus—Half a month's (15 days) basic pay as on 15th August 1947.

(6) Profit sharing bonus—For future years bonus will be on a profit sharing basis according to a scheme to be worked out by the management.

(7) Production bonus on Hoops—

Two shifts operation	*T. 300	400	500	600	700
Single shift operation	*T. 175	235	280	340	400
Production, maintenance including Stores and Shipping.	10 per cent.	20 per cent.	30 per cent.	40 per cent.	50 per cent.

N.B.—* The bonus amount will be pro rata on tonnages in between.

(8) Attendance bonus—

In lieu of production bonus, all daily-rated weekly paid employees will get an attendance bonus of 20 per cent on their basic pay provided they are not absent without leave or on leave without pay for more than two days in each four weekly period.

(9) All other demands are withdrawn by the workers.

(10) This award will hold good and be in force for one year from this date, i.e., 24th April 1948.

6. I pass an award in terms contained in the above-cited memorandum of compromise.

Order—No. 2598, *Development, dated* 21*st May* 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the industrial dispute between the workers and the management of the Indian Steel Rolling Mills, Limited, Negapatam, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Indian Steel Rolling Mills, Limited, Negapatam, and the workers employed therein and directs that the said award shall come into operation on the 24th April 1948 and shall remain in force up to and inclusive of 23rd April 1949.

(By order of His Excellency the Governor)

K. G. Menon,
Secretary to Government.

XXV

BEFORE THE INDUSTRIAL TRIBUNAL, BEZWADA.

Sri P. MARKANDEYULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

In the Matter of an Industrial Dispute.

Between

THE MANAGEMENTS OF THE ALUMINIUM FACTORIES IN THE DISTRICTS OF VIZAGAPATAM, EAST GODAVARI, WEST GODAVARI, KRISHNA AND GUNTUR

and

THE WORKERS.

Subject*—1. *Wages—Whether should be increased or reduced.—Held **on the evidence that the cost of production in Rajahmundry was lower than in Ellore, that some of the manufacturers at Rajahmundry were paying higher wages demanded by workers and that**

the Aluminium Workers' Co-operative Society was paying much higher wages than that demanded by the workers and that the industry could pay increased wages.

Awarded wage rates of Rs. 9 to caster and hammerer and Rs. 24 to polisher per 100 lb.

Held that in view of the above findings, wages should not be reduced.

2. *Whether the increased wages should be paid retrospectively from 15th August 1947.*—*Held* that the Rajahmundry workers were on an illegal strike and that their original demand was for presents and not for increased wages.

Held that the wage increases should be paid from the date of the publication of the Award.

3. *Bonus for the year 1946–47.*—*Held* that as the workers had taken the bonus in advance they could not claim it again. For the year 1947–48 accounts had not been closed and hence could not be decided.

4. *Uniforms for workers.*—Demand negatived.

5. *Whether the manufacturers at Rajahmundry declared a lock out in June 1947.*—*Held* that the workers went on an illegal strike without notice demanding presents and that the manufacturers did not declare a lock out.

6. *Whether the manufacturers at Ellore declared an illegal lock out.*—*Held* that the averment had not been substantiated.

7. *Whether Routhu Appalaswami closed his shop and should he be directed to reopen and employ the workmen.*—*Held* that the allegations had not been proved.

8. *Whether the workers should be paid wages in the above circumstances.*—*Held* that in view of the findings stated above, the claim should be negatived.

G.O. Ms. No. 2617, Development, dated 21st May 1948.

[Labour—Disputes—Dispute between the workers and managements of aluminium factories in the districts of Vizagapatam, East Godavari, West Godavari, Krishna and Guntur—Recommendations of the Industrial Tribunal, Bezwada—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 4346, Development, dated 5th September 1947.

(2)

Letter from Sri P. Markandeyulu, M.A., B.L., retired City Civil Judge, Madras, and Industrial Tribunal, Bezwada, to the Secretary to Government, Development Department, dated Bezwada, the 12th May 1948.

I have the honour to submit herewith my Award in the Industrial Disputes in the aluminium factories in the districts of Vizagapatam, East Godavari, West Godavari, Krishna and Guntur that have been referred to me for adjudication in G.O. Ms. No. 4346, Development, dated 5th September 1947.

BEFORE THE INDUSTRIAL TRIBUNAL, BEZWADA.

PRESENT:

SRI P. MARKANDEYULU, M.A., B.L.

[In the matter of the industrial disputes between the managements and the workers of the aluminium factories in Vizagapatam, East Godavari, West Godavari, Krishna and Guntur districts.]

Sri K. S. Prakasa Rao, advocate for the Aluminium Castware Manufacturers' Association, Rajahmundry.

Sri K. Balakrishnayya, advocate for the Aluminium Castware Manufacturers' Association, Ellore town.

Sri K. Veerabadra Swami (Trade Union Worker) for the Andhra Provincial Aluminium Workers' Organizing Committee, Rajahmundry.

AWARD.

1. By G.O. Ms. No. 4346, Development, dated 5th September 1947, the industrial disputes in the aluminium factories in the districts of Vizagapatam, East Godavari, West Godavari, Krishna and Guntur have been referred by the Government of Madras to this Tribunal for adjudication. Strictly speaking, it is not correct to say that all the industrial disputes in the aluminium factories in the five districts have been referred to this Tribunal, for, the exact wording of the Government Order is that " an industrial dispute has arisen between the workers and the managements of the aluminium factories . . . in respect of rates of wages to be paid to different classes of workers in the industry." But I have taken the view that I have jurisdiction to adjudicate on all the industrial disputes in existence in the aluminium factories in the five districts on the date of the passing of the Government Order. But it may be stated at once that the most important question for decision in this reference is the fixation of wages for the various classes of workers in the aluminium industry.

2. I have sent out notices to about 300 aluminium companies in the five districts as well as to the workers in these companies informing them that if there were any industrial disputes between the managements and the workers, they could be referred to me for adjudication. But statements of claims have been received only from the following :—

(i) Aluminium Castware Manufacturers' Association, Rajahmundry;

(ii) The Andhra Provincial Aluminium Workers' Organizing Committee, Rajahmundry;

(iii) Aluminium Castware Manufacturers' Association, Ellore Town;

(iv) Ellore Aluminium Samuyuktha Karmik Sangham; and

(v) The Aluminium Workers' Union, Anakapalle.

No replies have been received from many companies to which notices had been sent and the managements of some companies have reported that there are no industrial disputes between them and their workers and that the relations between the employers and the employed are quite cordial.

3. As already stated, the main question for decision in this case relates to the fixation of wages. There are three main classes of workers in the aluminium factories. They are (1) casters, (2) hammerers and (3) polishers, and they are paid on the piece-rate system, i.e., according to the amount of work turned out by them. There is also a helper boy for blowing the bellows and an earth-cleaning boy and these are paid monthly wages. At the time of the passing of the Government Order, dated 5th September 1947, referring this case to this Tribunal, a caster and a hammerer in most of the aluminium factories in Rajahmundry were getting a wage of Rs. 8–8–0 each per 100 lb. of metal, while the polisher was getting a wage of Rs. 22–8–0 per 100 lb. This wage was being paid from 15th August 1947 as the result of an interim settlement between the Aluminium Castware Manufacturers' Association, Rajahmundry, and the Aluminium Workers' Union, Rajahmundry, brought about by the Assistant Labour Commissioner on 9th August 1947 (vide Exhibit G). Prior to 15th August 1947 a caster and a hammerer in Rajahmundry were each being paid only Rs. 8 per 100 lb. and a polisher Rs. 21 per 100 lb. But in all other places except Rajahmundry (Bezwada, Ellore, Anakapalle, Vizianagram and other places) a caster and a hammerer were each paid at the rate of Rs. 9 per 100 lb. and the polisher at the rate of Rs. 24 per 100 lb. Now the main demand of the Andhra Provincial Workers' Organizing Committee is that there should be no distinction between the workers in Rajahmundry and the workers in other places and that all of them should be paid at an uniform rate of Rs. 9 for casting, Rs. 9 for hammering and Rs. 24

for polishing. The Aluminium Workers' Union, Anakapalle supports the case of the Andhra Provincial Workers' Organizing Committee.

4. The Aluminium Castware Manufacturers' Association, Rajahmundry, opposes the claim of the aluminium workers in Rajahmundry for enhanced wages and contends that the aluminium industry is not now so prosperous as before and that it cannot afford to pay the wages claimed by the workers in Rajahmundry. It is pointed out that the cost of aluminium pure metal has gone up as well as the cost of the finished article on account of the decontrol policy of the Government and that the castware goods have now got to compete with the machine-made articles which can be produced at greater speed and are consequently selling at lower prices. The Manufacturers' Association goes further and contends that the wages prevailing before 15th August 1947 should be reduced by nearly one-half in order to protect the aluminium castware industry.

5. The Aluminium Castware Manufacturers' Association, Ellore town, supports the case of the Castware Manufacturers' Association, Rajahmundry, and also contends that the prevailing rates should be reduced as proposed by the Rajahmundry Association. Statement E annexed to the written statement filed by the Aluminium Castware Manufacturers' Association, Rajahmundry, sets out the reduced wages proprosed by the Association. Statement D annexed to the written statement filed by the Aluminium Castware Manufacturers' Association, Ellore town, gives the reduced wages proposed by that Association and they are substantially the same as those proposed by the Rajahmundry Association with this difference, viz., that the Ellore Association proposes to pay only Rs. 10 per 100 lb. of metal to the polisher while the Rajahmundry Association is generous enough to propose Rs. 15 per 100 lb.

6. The statement filed by the Ellore Aluminium Samuyuktha Karmika Sangham is signed by one Ponnaganti Appalaswami (workers' witness No. 2) who describes himself as the convener of the Sangham and the only allegation found in it is that one Rowthu Appalaswami has closed his aluminium company from 10th July 1947 with the result that about 20 workers have been thrown out of employment and that he should be directed to re-open his company and provide work for all the workers.

7. There are some other matters in dispute between the managements and the workers but it is not necessary to specify them here as they will be apparent from the issues settled in the case which will be set out presently.

8. An important contention put forward by the Aluminium Castware Manufacturers' Association, Rajahmundry, is that the wages for the workers in the aluminium industry cannot be fixed

unless it is determined beforehand in what proportion the pure and the impure metal should be mixed in the manufacture of aluminium goods.

9. The following issues were settled on 2nd February 1948 :—

I. (*a*) What are the rates of wages that should be paid to the different classes of aluminium workers?

(*b*) Are the workers entitled to higher wages with effect from 15th August 1947?

II. In what proportion should inferior metal and pure metal be used in the manufacture of aluminium articles?

III. (*a*) Is there any justification for reducing the wages that are now prevailing in the aluminium factories in the five districts; and if so, to what rates should they be reduced?

(*b*) Should the wages be reduced with retrospective effect from 15th August 1947?

IV. Are the workers entitled to any bonus for the year 1946–47? And how is the year to be reckoned for computing the bonus?

V. Should the managements supply the workers with two sets of uniforms in a year to be worn while on duty?

The following additional issues were framed on 10th March 1948 :—

I. Did the managements declare a lock-out or did the workers declare a strike?

II. Did any aluminium factories declare a lock-out before the reference to adjudication and did they continue the lock-out even after the reference?

III. If the previous issue is answered in the affirmative, are the lock-outs illegal and are the workers entitled to compensatory wages for the duration of the lock-outs?

Issue I (a) and (b).

10. The aluminium industry was started as a cottage industry about 50 years ago in Rajahmundry which is said to be the home of the industry. It is said that the silt of the Godavari river is eminently suited for casting moulds. The industry soon spread to all the districts of the Northern Circars and many aluminium companies were opened in important towns like Bezwada, Ellore, Anakapalle, Vizianagram, etc. It is said that in the beginning all the workers had to be taken only from Rajahmundry who naturally demanded higher wages for leaving their native town and that this practice has been discontinued for the last ten years or so as aluminium workers are now available locally. Both sides are agreed that the silt or earth is still being taken from Rajahmundry

for the manufacture of aluminium articles. This accounts for the fact that the wages paid to the workers in other stations have always been higher than those paid at Rajahmundry. This will be apparent from Statement ' A ' attached to the written statement filed by the Castware Manufacturers' Association Rajahmundry, and Statement ' A ' attached to the written statement filed by the Casteware Manufacturers' Association, Ellore. It will be seen that the wages have been increased from time to time and that from 1st June 1946 to 15th August 1947 a caster, a hammerer and a polisher at Ellore were paid Rs. 9, Rs. 9 and Rs. 23 respectively while their counterparts in Rajahmundry were paid only Rs. 8, Rs. 8 and Rs. 21 respectively. Though the Statement ' A ' filed by the Casteware Manufacturers' Association, Ellore, shows that only Rs. 23 was paid to the polisher till 15th August 1947, the case proceeded before me on the assumption, and it was tacitly conceded, that a polisher in Ellore and other places except in Rajahmundry was being paid Rs. 24 for 100 lb. even before 15th August 1947—the date from which the interim settlement effected by the Assistant Commissioner of Labour has come into force. It is conceded that the wages paid in all other places except Rajahmundry are the same as those paid at Ellore. The interim settlement, dated 9th August 1947, was effected only between the Castware Manufacturers' Association, Rajahmundry, and the Aluminium Workers' Union, Rajahmundry. The managements and the workers in other places were not interested in this as the former had been paying and the latter had been receiving higher wages than those mentioned in the interim agreement. By reason of this settlement, the members of the Castware Manufacturers' Association, Rajahmundry, agreed to pay Rs. 8–8–0 for casting, Rs. 8–8–0 for hammering and Rs. 22–8–0 for polishing. These rates are still lower than those prevailing in Ellore and other places. It should be clearly understood that this demand for higher wages is made only by the members of the Aluminium Workers' Union, Rajahmundry, and that it is resisted only by the members of the Castware Manufacturers' Association, Rajahmundry. The contention of the Rajahmundry workers is that there is no reason for giving them a lower wage than that paid in Ellore and other places and that it is but just that the wages paid to them should be brought into line with those in other places.

11. It cannot be said that the demand of the aluminium workers at Rajahmundry is exorbitant or unreasonable and there are many circumstances which lend support to their case. It should be noted that the cost of production of the finished aluminium goods is greater at Ellore and other places than at Rajahmundry, for one thing the wages paid in Ellore and other places are higher than those paid at Rajahmundry and, further, wherever the factory may be situated, the silt or the earth has to come from Rajahmundry. The Statement ' B-1 ' annexed to the statement filed by the Ellore Castware Manufacturers' Association shows that the cost of producing 94 lb. of finished goods with pure metal is Rs. 178–2–3; but

from Statement 'C-1' attached to the statement filed by the Castware Manufacturers' Association, Rajahmundry, it is seen that the cost of production of the same quantity of goods is only Rs. 176-0-6. From this it follows that the margin of profits for the Rajahmundry merchants is greater than that available for the manufacturers of Ellore and places other than Rajahmundry. One fails to see why the companies in Rajahmundry should not pay the same wages that are paid by the merchants in Ellore and other places.

12. Another important fact to notice is that even in Rajahmundry town some aluminium companies are paying the wages demanded by their workers. The witnesses examined by the Manufacturers' Association, Rajahmundry, have admitted that some companies in Rajahmundry (some of which are members of the Manufacturers' Association) have been paying the higher wages demanded by the workers for a long time. Notable among these is the S. P. K. A. L. Lakshmanan Chettiyar's Aluminium Foundry which is a member of the Castware Manufacturers' Association, Rajahmundry. The managements' witnesses have also admitted that some companies in Jampet have all along been paying the higher wages demanded by the workers. When some companies in Rajahmundry itself are paying the higher wages demanded by the workers, there is no reason why the members of the Casteware Manufacturers' Association alone should demur to it.

13. Last, though not least, we must notice a peculiar but welcome feature of aluminium industry in Rajahmundry. Some of the workers of the aluminium factories in Rajahmundry started a co-operative society in December 1944 or thereabouts, registered the society, and have been manufacturing aluminium goods to the entire satisfaction of the public and it is admitted by the witnesses for the managements themselves that these goods are of finer workmanship than those produced by the Manufacturers' Association and that they find a ready market even though their prices are higher. (*See* the evidence of managements' witnesses 1, 2 and 3.) The most important thing to note about the Workers' Co-operative Factory is that it is paying its workers at the rate of Rs. 11 for casting, Rs. 11 for hammering and Rs. 30 for the polishing—a much higher wage than that now demanded by the workers. It is pointed out by the learned advocate for the Manufacturers' Association, Rajahmundry, that the Workers Co-operative Factory has borrowed a sum of Rs. 50,000 from the Government and another sum of Rs. 50,000 on a pledge of aluminium metal, that no portion of the loan has been repaid, that there is no satisfactory evidence that the factory has made any profits or declared any dividends and that therefore it cannot be said that the factory can afford to pay the wages that it is now paying. But the workers assert that their factory has made a net profit of more than Rs. 25,000 for the year from 1st July 1945 to 30th June 1946, that they have constructed a building at a cost of about Rs. 50,000 and declared a dividend of 6¼ per cent for that year about two or three months ago. They

have filed only the Auditor's Report (Exhibit IV) for the year 1945–46 which does not show that any dividend has been declared or is intended to be declared. The reports of the Registrar of Co-operative Societies and other officers of the Government are not filed, so that it is not possible to say with confidence that the Workers' Co-operative Factory has been working on sound lines or has been making considerable profits. But from the fact that the co-operative factory is paying Rs. 11, Rs. 11 and Rs. 30 to its workers, I draw the inference that the wages claimed by the workers at this enquiry are neither exorbitant nor unreasonable.

14. As already stated, the claim for enhanced wages is opposed by the Aluminium Castware Manufacturers' Association, Rajahmundry, and in order to appreciate the grounds of their opposition it is necessary to state a few facts.

15. From the pleadings filed before me as well as from the evidence adduced it would appear that it is possible to produce aluminium goods either from pure metal or from base or inferior metal. The pure metal is, of course, more costly than the inferior variety. The former is now selling at about Rs. 100 per cwt. and the latter at prices ranging from Rs. 40 to Rs. 50 per cwt. According to the evidence of some of the witnesses examined by the Manufacturers' Association, Rajahmundry, so far as the marketability of the goods is concerned, it does not matter very much whether pure metel is used or inferior metal is used in the manufacture of aluminium goods. M.W. No. 2 (Vasi Reddi Ramulu) deposes "The saleability of the goods depends upon the degree of workmanship displayed in their manufacture." M.W. No. 4 (N. Achutha Ramiah) deposes "the price of aluminium goods depends upon the degree of finish. The goods of the co-operative factory have a better finish than our goods. If the finish is very good, the goods will fetch a high price. Even if 70 per cent inferior metal is used a good workman can give a good finish to the finished article and if the finish is good it will fetch a good price." The management's witnesses have also deposed that the public prefer cheap goods and are not very particular that they should be made of pure metal. In these circumstances the temptation to use more and more of inferior metal in the manufacture of goods is very great and I do not think that the manufacturers in Rajahmundry and Ellore are an exception to this rule. M.W. 2, a leading aluminium manufacturer of Rajahmundry who made a profit of Rs. 46,000 in 1945–46, has deposed that he has been using 60 per cent of inferior metal and 40 per cent of superior metal in the manufacture of aluminium goods. But M.W. 4 deposes that some companies are using superior and inferior metal in the proportion of 50 : 50 and that the companies are not following a uniform practice in this respect. They use superior and inferior metal according to the needs of the moment. But it can safely be assumed that no merchant, however high-minded and moral he may be, would use

superior metal to such an extent as to involve himself in loss. I have already stated that M.W. 2 uses 60 per cent of inferior metal and 40 per cent of superior metal and made a profit of Rs. 46,000 in 1945–46. He deposes that he paid an income-tax of Rs. 14,500 on that income and that in the previous year he had paid an income-tax of Rs. 4,000 and odd. M.W. 3 (Kanakala Subba Rao), who was originally an aluminium worker and subsequently started a factory of his own in or about 1944, deposes that he and his partner invested Rs. 500 each in the business and made a profit of Rs. 10,000 in 1946–17 and that in the next year 1947–48 they made a profit of about Rs. 9,000. It means that they made a profit of 1,000 per cent in 1946–47 and 900 per cent in 1947–48. It is not likely that they would have made these huge profits if they had used only pure metal in the manufacture of their goods. M.W. 3 deposes that he was originally using superior and inferior metal in the proportion of 2 : 1 and that he has been using them in the proportion of 1 : 1 since January 1948.

16. It is argued by Sri K. S. Prakasa Rao for the Manufacturers' Association, Rajahmundry, that the wages of the workers (the caster, the hammerer and the polisher) cannot be fixed unless the proportion in which the two varieties of metal are to be used is determined beforehand. His argument is that if only pure metal is to be used in the manufacture of goods, or if 80 per cent pure metal and 20 per cent inferior metal or even if 75 per cent superior metal and 25 per cent inferior metal are to be used, the aluminium companies in Rajahmundry and other places will undoubtedly suffer a loss and cannot afford to pay the wages claimed by the workers in Rajahmundry. The Aluminium Casteware Manufacturers' Association, Rajahmundry, has filed certain statements along with its written statement in support of this contention. (*See* statements C-1 and C-2 attached to their written statement and the statement, dated 12th April 1948.) The answer to this is that there is no obligation on the part of the manufacturers to use only pure metal or 80 per cent of pure metal and 20 per cent of inferior metal or even 75 per cent of pure metal and 25 per cent of inferior metal and that they can use the superior and inferior metals in such proportions as would satisfy the public demand and yield them a reasonable profit. Further, the merchants of Ellore and other places have made profits in the past in spite of the fact that they had been paying the higher wages now demanded by the workers in Rajahmundry. (See the evidence of M.W. 5 Allu Ramulu). I cannot therefore accept the contention that the wages cannot be fixed unless the proportions are determined.

17. But I am satisfied that even if 75 per cent of pure metal and 25 per cent of inferior metal are used and even if the wages demanded by the workers are paid the aluminium companies in Rajahmundry would not suffer any loss thereby. I give below a rough estimate of the cost of production and sale price in respect

of one cwt. (112 lb.) of aluminium metal mixed in the proportion of 75 per cent pure and 25 per cent impure:—

	RS.	A.	P.
¾ cwt. of pure metal at Rs. 100 per 1 cwt.	75	0	0
¼ cwt. of inferior metal at Rs. 50 per 1 cwt.	12	8	0
Cost of charcoal, crucible, wheel, rope, etc.	19	0	0
Establishment charges	6	0	0
Wares -			
Caster for 112 lb.	9	14	0
Hammerer for 112 lb.	9	14	0
Turner for 94 lb.	22	8	0
Helper and earth boy for two days	6	0	0
	48	4	9
	160	12	9
Selling price of 94 lb. of finished goods at Rs. 1-15 0 per lb. ..	182	2	0
Deduct the cost of production	160	12	9
Net profit ..	21	5	3

This roughly comes to a net profit of about 13 per cent.

18. There is not much difference between the figures given above and the figures given by the Casteware Manufacturers' Association, Rajahmundry, in its statement, dated 12th April 1948, but there is one important point of difference. They have given the sale price of finished goods as Rs. 1-12-0 per lb. whereas I have adopted that the figure of Rs. 1-15-0 per lb. The Aluminium Castware Manufacturers' Association have not filed their account books to show the prices, at which they sold their goods though repeatedly called upon to do so whereas the aluminium workers have filed the invoices books of their co-operative factory from which it is seen that they have sold their goods on a great many occasions at Rs. 1-15-0 per lb., Rs. 2-1-0 per lb. and even at Rs. 2-4-0 per lb. I have therefore adopted Rs. 1-15-0 per lb. as the price of the finished goods. In order to understand the calculation given above, it is necessary to state that about 112 lb. (1 cwt.) of aluminium metal would yield about 94 lb. of finished goods.

19. It will be seen from the foregoing that an aluminium manufacturer can make a profit of about 12 to 13 per cent on his capital using the superior and the inferior metal in the proportion of 75 per cent and 25 per cent and paying a wage of Rs. 9 to the caster, Rs. 9 to the hammerer and Rs. 24 to the polisher. This is quite a reasonable and substantial profit and no manufacturer can have any reason for complaint. The aluminium manufacturers cannot expect to make the fabulous profits that they made during the last war.

20. It is not contended on behalf of the aluminium workers that they are not paid a living wage and that that is the reason for their present demand for higher wages. It is conceded that the aluminium worker is the highest paid worker in the five districts and that a caster, a hammerer and a polisher make anything between Rs. 70 and Rs. 100 per mensem working about twenty days in a month. There can therefore be no doubt that the aluminium worker is getting a living wage even on the existing wages. His contention is that there is no reason why the Rajahmundry worker should get a lower wage than the workers in Ellore and other places and that there should be a uniform wage in all the factories in the five districts and I have come to the conclusion that this is a reasonable demand.

21. I must now refer to some notifications and warnings published by the Government regarding the use of aluminium vessels. In the "Hindu" of 9th March 1947, the following Press News was published :—

"*Aero-scrap utensils injurious to health.*

A Government Press Note says that cooking utensils made out of scrap metal from aeroplane parts have found a ready market in this country. They especially commend to the poor folk for their attractiveness, durability and low price. The Council of Scientific and Industrial Research, however, has issued a warning against their use inasmuch as food cooked in aero-scrap utensils has been found injurious to health. This warning should be widely published and the manufacture and sale of such utensils must be immediately stopped."

The following apeared in the "Hindu" of 17th November 1947 :—

"The risk to human health in the indiscriminate use of aluminium vessels is described in a Government Press Communiqué which among other things says :—

"Vessels for cooking and storing food form an essential equipment in household but people are apt to forget what an important role they play in the preservation of their health. Vessels made of aluminium are extensively used in this Province for cooking and storing prepared food. Recent experiments carried out in India and other countries have shown that certain foods where especially tamarind and salt are used (for instance 'sambhar' 'rasam,' etc.) act on aluminium and dissolve it in appreciable amounts. Though the available evidence is that aluminium in the amounts it is likely to be consumed as a result of using aluminium vessels, may not have any harmful effect on all consumers yet it is advisable that the use of these vessels is minimized as far as possible.

A special word of caution is also necessary against the use for cooking and storing food of vessels made of aluminium scrap metals dismantled from aeroplanes and other war-discarded machinery. From the latest information available from the United Kingdom,

it has been found that there is considerable injury to health attendant on the use of these vessels. It is a duty cast on the manufacturers of aluminium vessels that they select for their ware only sound material. The public have a right to demand from the traders a guarantee about the genuineness of the articles they purchase."

22. From the foregoing it would appear that the use of aluminium vessels for cooking and for storing cooked food is attended with danger to health; and the manufacturers and the consumers naturally expect the Government to take some action in the matter. They would expect the Government either to prohibit the use by suitable legislation of the use of aluminium vessels altogether for cooking purposes and for storing cooked food or to prescribe the proportions in which the pure metal and the impure should be mixed, if the danger to health can be averted thereby. In the interim settlement effected on 9th August 1947 the Government is requested either to prohibit the manufacture and sale of utensils made of aero-scrap metal or at least to prescribe the proportion in which the scrap metal and the virgin metal should be used in the manufacture of such vessels. During the pendency of these proceedings before this Tribunal, the Aluminium Workers' Co-operative Factory, the manufacture of such Limited, addressed a communication, dated 12th January 1948, to the Director of Industries, Madras, in which the Government is requested to enlighten the public as to whether cooking vessels made of aero-scrap metal alone are injurious to health or whether such vessels are equally injurious to health even if made of pure metal and to take suitable action in the interests of public health. The managements and the workers are equally anxious that something should be done by the Government to ease the public mind and I too am of the same opinion. I strongly recommend that the Government, either Local or Central, should obtain the opinion of scientific experts and introduce suitable legislation either prohibiting the use of cooking vessels made of aluminium altogether or prescribing the proportions in which the virgin and the impure metals could be mixed without detriment to public health. I would suggest that after that a wage board should be constituted for fixing the minimum wages for the different classes of workers in the aluminium industry. But I do not agree with the learned Advocate for the Aluminium Castware Manufacturers' Association that the wages cannot be fixed unless and until the proportions in which the pure and the base metal should be mixed are prescribed by the Government.

23. My award on issue I (*a*) is that in all the aluminium factories in the districts of Vizagapatam, East Godavari, West Godavari, Kistna and Guntur, a caster and hammerer should each get a wage of Rs. 9 per 100 lb. and a polisher Rs. 24 per 100 lb. No change is called for in the wages paid to the helper boy and the earth cleaning as no argument was addressed on their behalf. But the wages that are now being paid to them cannot be reduced.

24. My award on issue I (*b*) is that that the enhanced wages should be paid to the caster, hammerer and the polisher from the date of the publication of this award by the Government and not from 15th August 1947 the date on which the interim settlement has come into force. I shall show presently when dealing with the additional issues that the aluminium workers in Rajahmundry started an illegal strike from 2nd June 1947 in order to put pressure on the employers to give them presents and remained on strike till 11th August 1947 on which date they resumed work as the result of the interim settlement. It should also be noted that the demand for higher wages was not put forward at first but only after the strike had been in progress for some time. The original demand of the workers at Rajahmundry was that they should be given presents (see Exhibit 'F'). Subsequently they demanded either presents or increased wages (see Exhibit 'X'). Later they appear to have changed their front and taken their stand only on increased wages. For all these reasons I hold that the aluminium workers in Rajahmundry are not entitled to the increased wages awarded by me from 15th August 1947 but only from the date of the publication of this award by the Government.

Issue II.

25. I have dealt with this question under the first issue and have recommended to the Government that they should undertake suitable legislation with regard to aluminium vessels after obtaining the opinion of scientific experts.

Issue III (a) and (b).

26. The Aluminium Castware Manufacturers' Association, Rajahmundry, and the Aluminium Castware Manufacturers' Association, Ellore, have put forward a most extraordinary contention, namely, that the prevailing rates of wages in the aluminium factories in all the five districts should be reduced by nearly one-half on the ground that the industry cannot bear this burden. In dealing with the first issue, I have exposed the hollowness of this plea. I have shown that the aluminium manufacturers made phenomenal profits in recent years and that even now they can make a substantial profit even on the footing that the superior and the inferior metal should be mixed in the proportion of 3 : 1. Further the prevailing wages can never be reduced unless it is shown that the only other alternative is the closing down of the industry which the managements have utterly failed to do. This issue is decided against the managements and in favour of the workers.

Issue IV.

27. This is a claim put forward by the Aluminium Workers' Union, Rajahmundry, and it relates to the bonus for the year 1946–47. It is well known that bonus is paid to the employees only when the company has made large profits and if in any year there are no profits no bonus can be claimed. But in this particular

case the aluminium workers of Rajahmundry took their bonuses in the beginning of the year itself without waiting to see whether any profits were made by the companies or not. And this fact is admitted by the workers' representatives. Exhibit 'B' is an agreement, dated 1st November 1946, executed by an employee, Koil Sree Ramulu, in favour of his employer Vasireddi Ramulu (M.W. 2) in which it is recited among other things that the worker has taken a sum of Rs. 120 as advance bonus for the year 1946–47 and that the worker should not leave the service of the company for one year. It is admitted that all the employees in the aluminium factories received advance bonuses in this manner for that year and executed agreements similar to Exhibit 'B' in favour of their employers. From this it follows that the bonus for 1946–47 has already been paid and that it cannot be claimed once again.

28. So far as the bonus for the year 1947–48 is concerned, the year, as reckoned by the aluminium companies, has not yet come to a close and it is therefore too soon to say whether the companies have made profits or not. The aluminium companies in Rajahmundry calculate their year from the 1st of November till the 31st of October following. This issue is decided against the workers and in favour of the managements.

Issue V.

29. The workers demand that every one of them should be supplied with two uniforms in a year to be worn by them while actually engaged in aluminium work. This demand was not put forward by the workers at any time before the reference to adjudication and it is mentioned for the first time in the written statement filed by them. It is admitted that no company so far has been supplying uniforms to its workers—not even the Workers' Co-operative Factory which has the welfare of the workers at heart. But the President of the factory D. Sanyasi Rao (W.W. 3) has deposed that the Directors have decided to supply the workers with uniforms but the minutes book or the resolutions book has not been filed. As I am of opinion that the aluminium workers are better off than the other manual labourers such as a carpenter or a mason. I hold that that they should provide themselves with their own uniforms and that the managements should not be called upon to do so. This issue also is decided against the workers and in favour of the managements.

Additional Issue I.

30. It is alleged by the Aluminium Workers' Union, Rajahmundry, that the members of the Aluminium Castware Manufacturers' Association, Rajahmundry, unlawfully closed their shops from 2nd June 1947 to 11th August 1947 thereby creating a lock-out and the wages for this period are claimed by the Workers' Union. There is absolutely no foundation for this allegation and the evidence in the case points to the contrary conclusion. It is admitted on

behalf of the Rajahmundry Workers' Union that they made a demand for presents about the end of May or the beginning of June 1947. Exhibit ' C ' (29th May 1947) is a hand bill circulated by the Secretary of the Workers' Union in which the members are informed that an emergent meeting of the general body will be held on 30th May 1947 to consider the question of ' Bahumatis ' (presents). The minutes of the meeting held on 30th May 1947 are not produced by the Union though repeatedly requested to do so. Exhibit ' D ' (6th June 1947) is a letter written by the Secretary of the Aluminium Castware Manufacturers' Association to the Deputy Superintendent of Police, Rajahmundry, in which it is stated that the aluminium workers have been on strike since 2nd June 1947. Exhibits ' 5 ' series are printed pamphlets issued by the Aluminium Castware Manufacturers' Association in which it is stated that the workers have gone on strike as their demand for presents was not conceded and they are advised to come back to work on the old wages. Exhibits ' E ' series range between 13th June and 6th August 1947. The Aluminium Castware Manufacturers' Association have also sent a petition Exhibit ' D-1 ', dated 16th June 1947, to the Hon'ble Minister for Labour in which also it is reiterated that the workers have been on strike since 2nd June 1947. The only document filed on behalf of the Workers' Union is Exhibit ' X ' the date of which is not known but which must have been sent some time after 23rd June 1947. It is a petition sent by the Aluminium Castware Manufacturers' Association. It is by the Aluminium Workers' Union to the Hon'ble Minister for Labour presumably in answer to Exhibit ' D-1 ' the petition sent alleged in Exhibit ' X ' among other things that the manufacturers who are members of the Aluminium Castware Manufacturers' Association have closed their shops from 2nd June 1947 and have not acceded to their demand for presents or in the alternative for increased wages. I have no doubt in my mind that it is the workers that started an illegal strike without giving any previous notice and that the manufacturers of Rajahmundry did not declare a lock-out.

31. The Samyukta Karmika Samgham, Ellore, of which W.W. 2 is the Secretary alleges that some of the manufactures in Ellore closed their shops in July 1947 and kept them closed for about one and a half months as the workers did not agree to the reduction of the wages proposed by the manufacturers. The workers of Ellore demand that they should be paid the wages for the period of the lock-out. The allegation that some of the manufacturers of Ellore proposed to reduce the already existing wages and subsequently closed their shops when the workers did not agree to the proposed reduction appears to be true. Exhibit ' VI ' (7th July 1947) is a letter from the President of the Castware Manufacturers' Association, Ellore, to the Samyukta Karmika Sangham in which the workers are informed that the wages that were being paid till then would be reduced to the level of wages prevailing in Rajahmundry with effect from 15th July 1947. I have

no doubt that this letter was written at the instance of the Aluminium Castware Manufacturers' Association, Rajahmundry. Sri Allu Ramulu, the President of the Castware Manufacturers' Association, Ellore, admits in his evidence as M.W. 5 that the managements closed their shops one by one when the workers did not agree to the reduction of wages. It is admitted that from 11th August 1947 or 15th August 1947 most of the companies in Ellore have reopened and that work has been going on there as unusual without any reduction in wages.

32. It is a matter for regret that I am unable to give any relief to the aluminium workers in Ellore though it is a fact that many companies in that town declared a lock-out in July 1947. In the first place the written statement, dated 22nd December 1947, filed by the Samyukta Karmika Samgham does not make any mention of the fact that many companies in Ellore declared an illegal lock-out. As already stated the only allegation in it is that one Routhu Appalaswami has closed his shop from 10th July 1947 and it is prayed that he should be directed to reopen his shop and take back the workers. But the Secretary of the Union in his evidence as W.W. 2 deposes that the companies of Ellore closed their shops for about one month and fifteen days. But the names of the manufacturers who declared a lock-out in or about July 1947 are not known and in the absence of such evidence no relief can be granted.

33. So far as Rauthu Appalaswami is concerned, the Secretary of the Samgham W.W. 2 does not mention his name at all in chief-examination. On the other hand in cross-examination he deposes "I do not know why Routhu Appalaswami closed his business. I do not know if he became an insolvent."

34. In these circumstances I am constrained to hold that no relief can be granted to the aluminium workers of Ellore either.

Additional Issue II.

35. I have already held that the manufacturers of Rajahmundry did not declare a lock-out and that on the other hand the workers went on strike from 2nd June 1947. So far as Ellore is concerned there is absolultely no evidence that any aluminium company declared a lock-out before 5th September 1947, the date on which this dispute was referred to this Tribunal for adjudication and continued the lock-out even after that date. The allegation in the written statement, dated 22nd December 1947, filed by the Workers' Union (Samyukta Karmika Samgham) of Ellore that Routhu Appalaswami closed his shop on 10th July 1947 and had not yet reopened it has not been proved.

36. This issue also is decided against the workers and in favour of the managements.

Additional Issue III.

37. In view of my finding on the additional issue II, this issue does not arise for decision.

38. In the result I made an award that in all the aluminium factories in the districts of Vizagapatam, East Godavari, West Godavari, Kistna and Guntur a caster should be paid at the rate of Rs. 9 per 100 lb., a hammerer also at the same rate and a polisher at the rate of Rs. 24 per 100 lb. These enhanced wages will be paid at places where they are not already in vogue from the date of the publication of this award by the Government.

39. So far as the helper boy and the earth cleaning boy are concerned no increase in their wages is ordered but the wages that they are now drawing should continue to be in force and cannot be reduced.

40. The other demands of the workers are negatived.

Order—No. 2617, Development, dated 21st May 1948.

Whereas the award of the Industrial Tribunal, Bezwada, in respect of the industrial dispute between the workers and managements of the aluminium factories in the districts of Vizagapatam, East Godavari, West Godavari, Kistna and Guntur has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947). His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the aluminium factories in the districts of Vizagapatam, East Godavari, West Godavari, Kistna and Guntur and the workers employed therein and directs that the said award shall come into operation on the 21st day of May 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXVI

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, MADRAS.

SRI T. D. RAMAIYA PANTULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF ST. ANTHONY'S ENGINEERING INDUSTRIES, GOLDEN ROCK.

and

THE WORKERS.

MR. J. S. VEDAMANIKKAM, advocate and MR. J. W. T. FREEMAN, Engineer and Sole Proprietor—*for the management.*

MR. PARAMESWARAN NAIR, Secretary, St. Antony's Engineering Industries Labour Union—*for the workers.*

INTERIM AWARD.

The management undertake to give first preference to retrenched workers.

The management also agree to pay wages for the days of recuperative leave.

The management agree to take back certain workers if there is work.

Ordered accordingly.

G.O. Ms. No. 2619, Development, dated 21st May 1948.

[Labour—Disputes—Dispute between the workers and management of St. Anthony's Engineering Industries, Golden Rock—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1115, Development, dated 5th March 1948.

(2)

From the Industrial Tribunal for Engineering Firms and Type Foundaries, Madras, dated 29th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, GOVERNMENT OF MADRAS.

PRESENT :

SRI T. D. RAMAIYA PANTULU, M.A., B.L.,

Retired District and Sessions Judge.

[In the matter of the dispute between the management of St. Anthony's Engineering Industries, Golden Rock, and the workers of St. Anthony's Engineering Industries.]

Mr. J. S. Vedamanikkam (Advocate), and Mr. J. W. T. Freeman, Engineer and sole proprietor—for the management.

Mr. Parameswaran Nair, Secretary, St. Anthony's Engineering Industries Labour Union—for the workers.

AWARD.

The management says that on account of slackness in work, they will be able to engage only eleven to fifteen men (excluding office-boys and welders) from the 1st May 1948. They undertake to give first preference to the old workers now unemployed as and when they get more work provided however there are among the unemployed the categories of trades needed for the jobs to be performed.

2. The management also agree to pay the wages for the days of recuperative leave as soon as the communication from the Inspector of Factories, in answer to the letter of the management, No. A-54/139-A/48, dated 20th April 1948, is received. Management will take back Arogya Das if he is willing to come back and if there is work and if he gives the undertaking prescribed by the Labour Officer in his letter, dated 23rd March 1948. Doraiswami and Rangaswami will also be taken back when there is a chance. Management agrees to take back Govindaswami, boilersmith, when there is a chance for work and Govindaswami should on his part undertake to obey all legitimate and reasonable orders of the management. The wages due to him will be paid at once upon his application to the management.

Order—No. 2619, Development, dated 21st May 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of engineering firms and type foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramaiya Pantulu, Retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of St. Anthony's Engineering Industries, Golden Rock. The Government accept the award and make the following order:—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramaiya Pantulu, Retired District and Sessions Judge) constituted under G.O. Ms. No. 115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of engineering firms and type foundaries in the Province in respect of St. Anthony's Engineering Industries, Golden Rock, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of St. Anthony's Engineering Industries, Golden Rock, and the workers employed therein and directs that the said award shall come into operation on the 21st May 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the engineering firms and type foundries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXVII

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

SRI C. R. KRISHNA RAO.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE TILE FACTORIES OF COMMONWEALTH TRUST, CO., LTD., AT JEPPO AND KUDROLI, MANGALORE

and

THE WORKERS.

Subject*—1. *Wages—Whether should be increased by 1½ annas per day.—Held that as the company was paying dearness allowance as per the Mangalore settlement based on cost of living, they were entitled to reduce the basic salary fixed on the Malabar settlement.

Held that the workers could not claim the best of both the settlements but should choose the one or the other in entirety.

2. *Bonus.—Held* no decision was necessary as three months' wages had been declared as bonus.

3. ***Dismissal of workers in Jeppo factory—Whether justified and whether reinstatement should be ordered.—Held*** that the workers were not dismissed for disobedience of the orders or for attending the factory while under suspension but for refusal to sign an apology letter. ***Held*** that no Standing Orders could provide for dismissal of workers for failure to sign a letter of apology and the dismissal could not be sustained.

Ordered reinstatement of the discharged workers.

G.O. Ms. No. 2703, Development, dated 26th May 1948.

[**Labour**—Disputes—Dispute between the workers and management of the tile factories of Commonwealth Trust Company, Limited, at Jeppo and Kudroli, Mangalore—**Recommendations** of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 312, Development, dated 23rd January 1948.

(2)

From the Industrial Tribunal, Coimbatore.
dated 28th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

PRESENT :

SRI C. R. KRISHNA RAO.

INDUSTRIAL DISPUTE No. 5 OF 1948.

[In the matter of the industrial dispute between the workers and the management of the tile factories of the Commonwealth Trust, Limited, at Jeppo and Kudroli, Mangalore.]

This dispute having come up for final enquiry on the 14th and 15th April 1948 at Mangalore in the presence of Sri Bhaskar Rai, Counsel for the workers, and Mr. W. A. Burnett for the management and having stood over for consideration till this day, the 27th day of April 1948, the Tribunal made the following

AWARD.

Government referred the dispute to me for decision by G.O. Ms. No. 342, Development, dated 23rd January 1948.

2. The workers claimed that As. 1-6 which was cut by the management from their basic wage should be restored, that 20 workers who were dismissed should be reinstated and that three months' bonus should be paid. The management replied that the question of bonus had been referred to the Head Office at London, that the workers were properly dismissed for disobedience and that the cut in the wages was effected because dearness allowance was given on a different and higher basis.

3. The followmig issues were framed :—

First issue.—Are the workers entitled to be paid As. 1-6 more a day than they are getting now, for any of the reasons mentioned by them?

Second issue.—Are the workers entitled to be paid bonus now and, if, so, at what rate?

Third issue.—Is the dismissal of the workers of the despatch department justifiable, if not, which of them is entitled to be reinstated and on what condition?

4. The Commonwealth Trust, Limited, have tile factories in Malabar and in Mangalore. Many other companies also have tile factories in Mangalore and Malabar. Disputes arose earlier in Malabar between the workers and the managements regarding basic wages and dearness allowance. The Commissioner of Labour met both the parties and brought about a settlement. The basic wage

was raised and dearness allowance was fixed at 100 per cent of the basic wage but in no case was it to be less than 12 annas a day. When effect was given to this settlement in Malabar, the Commonwealth Trust raised the basic wage and dearness allowance of their workers in the Mangalore factories also. Troubles started in the other tile factories in Mangalore and an arbitration Committee was formed to settle the dispute. That Committee appears to have thought that the time was inopportune to interfere with the basic wage, but gave dearness allowance on the cost of living index basis. Some time after this, the workers in the Commonwealth Tile Factories at Mangalore wanted dearness allowance paid to them on the basis of the Mangalore award, that is on the cost of living. But the management thought that as they had given an increase in the basic wage because they expected to pay dearness allowance on the Malabar basic, they should be entitled to go back to the original basic wage if the Mangalore scale of dearness allowance was to be paid. In fact they say they have not completely gone back to the old scale of basic wages and that their basic wages are 6 pies better than that of any other factory in Mangalore.

5. The workers do not dispute the facts, but they say that the dearness alowance is given to neutralize the effect of the rise in the cost of living and that the basic wages of 6 annas and 7 annas prevailing in 1939 or earlier are utterly inadequate and that even one rupee a day has been held by some to be inadequate. It is obviously not right, that one single institution should be compelled to pay a higher basic wage while others pay very much less. In the Textile industry for instance when the basic wage was fixed at one rupee per day it was for all the mills and not for one or two selected mills. If in all the other factories in Mangalore wages are being paid on the basis of the Arbitration Committee's Award the Commonwealth Trust also is entitled to pay wages on the same basis. I do not see any ground for discrimination. No worker from the Commonwealth Trust factories says that he or she is getting less than a similar worker in the other factories of Mangalore. P.W. 1, Oosappa Chetti, who is a kiln burner in the Jeppo Tile factory says he is earning Rs. 78 and odd annas a month for eight hours work. His basic wage is As. 11–6 per day. He says one Taniya Poojari in Sudarsan Tile Works gets one rupee a day as basic wage but he has to work for 12 hours a day. Moreover Oosappa gets a helper both day and night and Taniya gets only in the night. In other words Taniya should get for eight hours work not even As. 10–8 and Oosappa gets for the same amount of work As. 11–6.

6. If may be that the basic wages paid in all the tile factories in Mangalore are too low and that a better minimum wage should be fixed. But that must be done for all the factories and not for two factories only. The better basic wage which workers in the Commonwealth factories were getting was voluntarily given and

it was connected with the dearness allowance granted. If the dearness allowance is to be enhanced the workers cannot say that the basic wage which was raised on a different basis should not be reduced. I am satisfied that the workers in the Commonwealth Trust tile factories in Mangalore, are at least as well off if not better than the workers in the other factories, and that they have no reasonable ground for complaining about the so-called wage cut. When there is any general revision of basic wages these workers also will get the benefit thereof. Now the point for decision is on what basis should they be paid, on the basis of the Mangalore award or of the settlement effected in Malabar. As the management points out, the workers seem to want the best portions of both, that is the basic wage, under the Malabar settlement and dearness allowance under the Mangalore settlement. They cannot pick out the best in both, they can choose the one or the other as a whole.

I find this issue against the workers.

7. *Second issue.*—The company have now notified that the workers will receive three months' bonus and so this issue does not call for decision.

8. *Third issue.*—Twenty workers of the Jeppo factory who were told off to work at the railway goods yard on the morning of 19th September 1947 refused to go unless they were paid an allowance of 6 annas a day. The usual allowance, which is said to be for tea and snacks and not for a regular meal, was 4 annas a day. Mr. Tait, now in England, was in charge of the factory then. From his letters to the Head office written on the 19th, 20th and 24th September 1947 the following facts emerge. On the 19th morning Mr. Tait was informed by his factory clerk that workers deputed to go to the goods yard refused to go and when Mr. Tait went to the wharf they told him that if they were not paid 6 annas they would not go. He warned them and then suspended them for four days for refusing to do their appointed work. But the workers instead of going home returned to the factory and continued to work during the four days of suspension. Their tokens had been taken from them. On 24th September 1947, there was a kind of conference and Mr. Tait asked the workers to sign a statement which he had prepared. The workers refused to apologize in terms of the statement and to sign it and they were dismissed.

9. It was contended on behalf of the workers that no notice of suspension was given to them. No notice in writing was individually served on each worker. But they must have known that they were suspended, because their tokens were taken away, and not given back to them, though they continued to come to the factory and do their work. The correspondence leaves no room for doubt that the workers were suspended and were told that they were suspended. The workers say that this demand for 6 annas for work in the goods yard had been made previously. There is

something in Mr. Tait's letters which gives colour to this. In his letter on 20th September 1947, he says "this is by no means the first time we have had trouble with the Jeppo workers on the question of rates of pay or allowances at the goods yard." Referring to the arguments of the workers in support of their demand for an allowance of 6 annas, he says in his letter on 24th September 1947 "These, of course, are old arguments and I put forward our point of view." But whether the demand for payment of 6 annas was made for the first time on 19th September 1947 or had been made before is immaterial. They were suspended for refusing to go to the yard, and even then Mr. Tait thought that for the sake of harmony in the factory, the workers should be dismissed. When the workers attended the factory and worked there in spite of the dismissal, a contingency which Mr. Tait did not foresee, he thought this was a fresh defiance of his authority and made up his mind to dismiss the workers unless they signed a statement apologizing for their disobedience and promising to obey the manager in future.

10. The action of the 20 workers in refusing to go to the goods yard and unless they were paid 6 annas a day extra was really a strike, and if the standing orders provided for dismissal of the workers if a strike was launched without sufficient notice, the management may have been justified in taking action under that standing order. Instead of this, Mr. Tait chose to regard this strike as an act of disobedience and suspended the workers under Standing Order 22 (*a*). The action of the workers in attending the factory after suspension was also a continuation of the strike, a stay in strike. Mr. Tait does not appear at any time to have prohibited the 20 workers from entering the factory. A suspension order deprives the worker of his attendance and his wages and carries a stigma also because it is a punishment for misconduct, but I do not think that if a worker works in the factory or attends the factory in spite of the suspension, he must necessarily be deemed to defy authority or to disobey instructions of the manager. But the case is different if he has been expressly told to keep away from the factory and he still persists in coming to the factory. From Mr. Tait's letter of 24th September 1947, it appears that the workers were dismissed, not so much because they attended the factory in spite of the suspension, as because they refused to sign the statement placed before them for signature. He says "Each person was asked directly whether or not he or she would sign the statement and each in turn said 'No'. I then advised them that they were dismissed." Some other workers who were present suggested that some time should be given to the dismissed workers to think over and time was given till noon. Then Mr. Tait says "The meeting reassembled at noon and all were present except one female. Each was asked individually whether he or she would now sign the statement and each refused. I then confirmed their dismissal and the meeting disbanded."

11. It is quite clear from the passages extracted from Mr. Tait's letter that the workers were dismissed for refusing to sign a statement. For disobeying the orders of the manager, the workers had been suspended for four days as provided in the Standing Orders. A copy of the Standing Orders has not been produced. I do not think there is any Standing Order which requires a worker to sign a letter of apology on pain of dismissal. If they disobeyed a second time, the Standing Orders provided the penalty. The dismissal, therefore, if it was for refusing to sign the statement was unjustified and cannot be sustained. If it was for attending the factory and doing work there, in spite of the orders of suspension, this was not properly put to the workers and their explanation, if any, was not taken. The workers were not asked to explain why they should not be dismissed for disobeying the order of suspension, and they could have been asked on the 19th, 20th and on the following days when they continued to defy that order. Why should Mr. Tait have waited till the 24th morning to dismiss the suspended workers, if he thought their continued attendance at the factory was a fresh breach of the Standing Orders? He wanted an apology and not getting it he dismissed them. Even on the 19th itself, Mr. Tait was for dismissing the 20 workers. He writes in his letter of that day " Please confirm that I am to dismiss the 8 males and 12 females as from the 24th September morning." He adds in the postscript " To ensure that we are not put in the wrong by interested parties over the dismissal of these workers, I suggest that if and when they return on the 24th they be given the chance of apologizing for their behaviour and of agreeing to obey orders in future. . ." The impression left on my mind is that the workers were dismissed not for what they had done before 24th September 1947, but for failing to give an assurance of good behaviour for the future. The dismissal is unsustainable and the workers must be reinstated.

12. The result is that I make an award as follows :—

(1) There will be no revision of the basic wages now being paid in the Jeppo and Kudroli Tile factories of the Commonwealth Trust, Limited.

(2) As the company has notified the workers that bonus will be paid, there will be no order for the payment of bonus.

(3) The 20 dismissed workers, 8 males and 12 females, will be reinstated by the company in the departments in which they were working at the time of dismissal if they report themselves to duty within 14 days of the publication of this award.

Order—No. 2703, *Development, dated* 26*th May* 1948.

Whereas the award of the Industrial Tribunal, Coimbatore, in respect of the industrial dispute between the workers and the management of the tile factories of Commonwealth Trust Company, Limited, at Jeppo and Kudroli, Mangalore, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the tile factories of Commonwealth Trust Company, Limited, at Jeppo and Kudroli, Mangalore, and the workers employed therein, and directs that the said award shall come into operation on 26th May 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXVIII

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

SRI C. R. KRISHNA RAO.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENTS OF CASHEW PROCESSING FACTORIES IN MANGALORE.

and

THE WORKERS.

Subject—1. *Classification of labour.*—*Held* that the labour in cashew factories were unregulated, that the management should ascertain the number of hands required and add a 5 or 10 per cent reserve and make them permanent workers. In effecting retrenchment the management should first dispense with the services of children, then absentees for over 50 per cent of the possible attendance, and then absentees for one month continuously and lastly according to service.

2. *Wages and dearness allowance.*—*Held* that the plea that the wages in Mangalore should not be raised unless the wages in Calicut and Quilon were also increased was untenable.

Awarded increase in piece rates of wages for each category of workers.

3. *Bonus.*—*Held* that one month's wages should be paid as bonus to those who had put in at least 50 per cent of the total possible attendance.

4. *Welfare.*—*Held* that creche was not at all maintained and where one was kept, it was worse than none.

Held also that the canteens were very poor and that there were no proper rest shelters.

5. *Maternity benefit.*—Granted to eligible women.

6. *Working conditions.*—*Held* that better working conditions should be provided to workers.

7. *Peeling.*—*Held* that peeling by fingers was painful and that extra allowance had therefore been provided for.

8. *Dismissal of nine workers.*—*Held* that the dismissals should stand as one preferred a false charge and the rest refused to peel without blades and incited others to go on strike without demand, negotiation and other preliminaries.

G.O. Ms. No. 2704, Development, dated 26th May 1948.

[Labour—Disputes—Dispute between the workers and managements of cashew processing factories in Mangalore—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 107, Development, dated 8th January 1948.

(2)

From the Industrial Tribunal, Coimbatore, dated 4th May 1948, *I.D. No.* 3/48.

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

PRESENT :

SRI C. R. KRISHNA RAO.

INDUSTRIAL DISPUTE NO. 3 OF 1948.

[In the matter of the industrial disputes between the workers and the managements of cashew processing factories in Mangalore.]

This dispute having come up for final enquiry on the 16th, 17th, 19th, 20th and 21st April 1948 at Mangalore in the presence of Sri B. S. Bhasker Rai, counsel for the workers, and Sri B. Vaikunta Baliga and Mr. P. D'Souza, counsel for the managements, and having stood over for consideration till this day, the 1st day of May 1948, the tribunal made the following

AWARD.

At first the dispute between the workers and the management in the cashew processing factories in Mangalore of Messrs. Peirce,

Leslie & Co., Ltd., was referred to me for adjudication by G.O. Ms. No. 5372, Development, dated 19th November 1947. By G.O. Ms. No. 107, dated 8th January 1948, the previous order was superseded and the disputes in all the cashew processing factories of Mangalore were referred to me for decision.

2. There are ten cashew processing factories in Mangalore. The managements of two, viz., Mizr Govinda Annappa Pai & Sons and Hindustan Commodity Corporation, Limited, sent rather argumentative statements and took no further part in the enquiry. The latter stated that it had stopped working for the last two years. Of the other eight factories Peirce, Leslie & Co., own three and Mallya Nayak & Co., own two. The Cardol Corporation, Fernandez Brothers and S. D. Ramachandra Nayak own one a piece. Only Peirce, Leslie & Co. is a joint stock company. The rest are owned by a few partners in each case. I inspected the eight factories at different times.

3. There is only one union called the Cashewnut, Cardamom and Coffee Workers' Union. The largest part of the membership of the union is from the workers from the factories of Peirce, Leslie & Co. From some of the factories, e.g., Mallya Nayak & Co., there is not even one member. After I had completed my enquiry into the disputes in Peirce, Leslie & Co.'s factories, the union, though it does not represent the workers in all the factories, sent a set of demands to all the other managements and tentative replies were sent to me by the managements. I framed issues mainly on the basis of demands put forward by the union and the managements were asked to suggest amendments to the issues, to save time. No modifications were suggested. The main points in dispute in all the factories relate to wages, dearness allowance, bonus, canteen and finally recognition of the union. In one of the factories of Peirce, Leslie & Co., some workers were dismissed and the union demanded that they should be reinstated. In all the factories of Peirce, Leslie & Co., the easy nuts are peeled with the fingers. One of the demands of the workers is that they should be allowed to use blades.

General—The industry.

4. Before I consider the issues in detail, it would be useful to give a short account of the growth of the industry. The Government of India published in 1944 a report on the marketing of cashewnuts in India. Messrs. Peirce, Leslie & Co., published in 1939 an illustrated booklet on the Indian Cashews. What follows is taken almost verbatim from one or the other of these publications :—

The cashew tree was introduced into India about 400 years ago mainly for the checking of soil erosion on coastal lands. The systematic cultivation of cashews on a plantation basis has been taken up only from about 1930 with the development of the export

trade in cashew kernels. The production of cashewnuts in India during the triennium ending 1940–41 averaged 45,000 tons per annum. Of the total production approximately 50 per cent is contributed by Madras, 20 per cent by Travancore, 16 per cent by Cochin and 10 per cent by Bombay. The market supply of cashewnuts is estimated to have increased nearly tenfold between 1930 and 1944. This has been due partly to the planting of new areas and partly to the better collection of nuts from old trees. As a large number of new plantations have not yet (1944) reached full bearing capacity, it is estimated that the production from the existing plants will go on increasing at the rate of at least 5 per cent every year for the coming ten years or so. Although local production is more than sufficient to meet the requirements of the home market, it falls much short of the export demand for kernels. Considerable quantities are, therefore, imported every year, mainly from East Africa. The import of cashewnuts during the triennium ending 1940–41 averaged about 28,000 tons. The African nuts are of smaller size, compared with Indian nuts although the kernels in the former are more fully developed. Of the total supply of kernels, nearly 75 per cent is exported outside India. The trend of exports has been steadily upward even during the war years in spite of serious shipping difficulties. More than 80 per cent of the total exports generally go to the United States of America, about 6 per cent to the United Kingdom and 3 per cent to Canada.

In Southern India, cashew kernels are mostly used for flavouring sweet dishes and for decorating confectioneries. During recent years, the use of fried and salted kernels has become very popular practically all over the country, and there appears to be a large scope for increasing the consumption of cashew kernels in that form. As cashew kernels do not keep well for more than three to four months, the kernels exported abroad are packed in vacuum with or without carbon dioxide. The kernels packed in vacuum keep well for about a year while those in carbon dioxide for about two years.

The price of cashewnuts as also those of cashew kernels are largely determined by the demand from the United States of America the market which consumes more than 75 per cent of the world's supply of cashew kernels. As cashewnut factories work mostly on imported nuts in the off season, and as the production of kernels is spread more or less evenly all over the years, the seasonal fluctuations in the price of both nuts and kernels are generally small.

A major portion of the cashewnut crop in India is assembled from farms by itinerant merchants. In recent years a number of factories have started their own buying depots in important assembling markets and it is estimated that about half of their requirements are now purchased by factories through their own establishments.

More than 85 per cent of the production on the West Coast is exported to foreign countries. Distribution to foreign countries is carried out chiefly by the processing factories themselves. Most of the large factories have their own representatives or commission agents in foreign markets. *Per Government of India Report.*

Small quantities of cashew kernels are exported from Brazil, but India has proved to be the only country providing conditions favourable to the large scale developments of the cashew kernel industry. The Indian cashew crop is harvested during March/May and the African crop normally arrives in India during December/March. The trees both in India and Africa are scattered over large areas of waste land or semi-waste land with the result that crop forecasts are unreliable, and it is not easy to arrive at estimates of crops harvested. The output of the best equipped cashew kernel factories is now about 10 cwt. of blanched kernels per year per person employed.

The devolpments to date in cashew kernel processing have eliminated waste of valuable by-products and the serious labour discomforts inseparable from the old processes. But very little has yet been done in the direction of reducing the large amount of hand labour involved in the production of blanched kernel as packed for export. It appears probable that failing the application of some completely new principle to the treatment of cashews, the industry will remain restricted to countries where steady fairly intelligent labour with natural cleanly and tidy habits is abundant and cheap. *Per Indian Cashews.*

Processing.

5. The processing of cashewnuts into blanched kernels has to be done in several stages, viz., roasting, shelling, peeling and finally grading. The ancient practice was to roast nuts in shallow pans over open fires. It had two drawbacks. The oil in the shells was burnt and lost. The roasting gave off a pungent and poisonous smoke which affected the health of the roasters. This primitive method of roasting is not in use now in any of the factories in Mangalore. In the Peirce, Leslie & Co.'s factories, the nuts are roasted in oil, the effect of which is that a large percentage of the oil in the shells is simultaneously recovered. The machinery was invented and patented by Peirce, Leslie & Co. Mallya Nayak and Co., decorticate the nuts without roasting and they do it by machine. It is a kind of nut cracker attached to a table and one worker (a female) cracks the nut by pedalling the machine and another sitting on the opposite side receives the kernel and the shell. The shell oil is recovered in another machine. The machines are American patent, and have been purchased by Mallya Nayak & Co. The other factories adopt the drum roasting method. In Peirce, Leslie & Co.'s factories, the oil that remains after roasting, on the surface, is further recovered in centrifugal machines and nuts are

passed on to the shelling department, much cleaner than in other factories. The shelling is done by women workers who give a few sharp elbows to each nuts with a small mallet or club. This breaks open the nut and the kernel is removed. The kernel has still got a brown husk or jacket, which is removed by the fingers in most cases in Peirce, Leslie & Co.'s factories and in others by the aid of a knife or bamboo blade. This is called peeling. This work is done in all the factories by women and little girls. The peeled kernels are then graded by women workers and finally packed in tins.

Labour.

6. Between 4,000 and 5,000 workers are employed in all the cashew processing factories of Mangalore. More than 80 per cent of the workers are women and young girls. At the preliminary enquiry, the counsel for Peirce, Leslie & Co., Rao Sahib T. T. R. Pillai, put forward the extraordinary proposition that the workers in the factories were all casual labour and, therefore, not entitled to any of the reliefs claimed by them. I framed this issue :—

"Are the workers in the cashewnut factories of Peirce, Leslie & Co. at Mangalore only casual workers, and therefore none of the reliefs claimed by the union on their behalf can be granted?"

The managements of the other factories have not put their case in this crude form, but they sympathise with the contention of Peirce, Leslie & Co. It would be indeed strange if 80 to 90 per cent of the workers in a factory were casual workers. What the Company really means is that the workers have liberty to attend the factory or not as if they were casual workers. The virtues of this system are stated to be these—

(1) There is no contract of service.

(2) No regular attendance is insisted on.

(3) No explanation need be given for absence.

(4) The worker can come and go as she pleases without reference to the hours of work.

(5) The worker is not attached to any factory and may migrate from one to another.

(6) No minimum output is insisted on.

(7) Work that is available is evenly distributed amongst the workers, i.e., there is spread over.

(8) The industry is seasonal, and the supply of nuts, and the sale of processed goods are both uncertain.

7. There is an attendance register maintained. The workers are given cards in which their outturn is noted, day by day. Wages are paid once a week and not each day. Maternity benefit is given to workers who are eligible for it. One of the factories at least gave a bonus. Some of the workers have been working in the same factory for years. It would be ridiculous to contend in the

face of these facts that the workers are no better than casual labour. The proper designation will be that it is unregulated labour. Labour is cheap and unfortunately too abundant. Because the managements can get all the labour they want, no attempt has been made to regulate it. The Model Standing Orders propose that workers should be classified as permanent, temporary, etc. None of the factories seems to have any standing orders, and certainly workers have not so far been classified on any intelligent basis. Absenteeism is very considerable, amounting to about 40 per cent. From the figures supplied by Peirce, Leslie & Co., it appears that against a possible attendance of 7,800 days, there was actually only an attendance of 5,208, the average for 40 workers and of 4,224, the average of another set of 40 workers. In the peeling section against a possible attendance of 7,960, the two averages for sets of 40 workers were respectively 5,557 and 4,025. No figures have been supplied from which the rate of turnover can be assessed, but that also must be considerable. In the Maidan factory of Peirce, Leslie & Co., the Manager told me that the crowding was due to a large influx of workers from other factories. A high rate of turnover and of absenteeism affect prejudicially both the employers and employees. It is high time that the workers are put on a regular and permanent basis. Amongst the many advantages that labour will obtain thereby are security, better wages and better working conditions.

8. It is inevitable that if labour is to be regulated there will have to be considerable retrenchment. At present much more labour is employed than the amount of work available justifies. A wealth of statistical data has been supplied by Peirce, Leslie & Co., for which I am grateful to them. A statement regarding the quantity shelled by 20 best and 20 worst workers in the Jeppu factory on 19th April 1948 has been put in. None of the best did less than 20 lb. and one did as much as 28. Their average was about 22½ lb. Of the worst some did no more than 7 lb. and no one did more than 8½ lb. It all could be made to do about 22½ lb. then only 460 workers would be necessary. But for that day the Company engaged ed 662 women and 123 children. The system of " come when you please, go when you like " must be responsible for the poor outturn of 7 and 8 lb. in a working day. Or there must be such a wide disparity in skill and efficiency between those who could do only 7 or 8 lb. in eight hours and those who could do 23 and 24 lb. in the same period. Whatever the cause, the slackers should be eliminated. I have not referred to the other factories or other departments of Peirce, Leslie & Co., but the statements supplied tell the same tale.

9. I found during my inspection that quite a lot of little girls were employed in the shelling and in the peeling departments. This was very marked in the Jeppu factory, where rows and rows of little girls were at work. When questioned they all gave their ages as 14, 16 or 17, but they looked not more than 10 or 12 and

a few even younger. Of course they had all obtained certificates from a doctor about their age. A doctor has generally to guess the age and he may go wrong as frequently as a layman unless he has recourse to special tests. A more satisfactory system would be to insist on a certified extract from the Birth and Death Register. Births are now compulsorily registered and it must be quite as easy to get a copy from this register as to obtain a medical certificate. These little girls should have been in school or in the playfields and not working in a factory to the detriment of their bodies. I am clearly of opinion that in any retrenchment that requires to be effected these little girls must be the first to be sent away.

10. No attempt seems to have been made by any factory to estimate the amount of permanent labour required for normal working. Because labour is so abundant and cheap, during the busy season everybody for whom room can be found is taken on and when the work is over, they are asked to go away and fend for themselves. It must be quite easy to calculate how many shellers and peelers and other workers are really needed in each one of these factories. The average outturn of a good worker is known. The average quantity of nuts handled in a year is known. It is simple arithmetic to find out how many workers are needed in each department. There may be a 5 or 10 per cent reserve. As regards labour, therefore, the first thing the managements have to do is to ascertain how many permanent workers they want in each department and employ only that number plus a reserve and enforce strict attendance as is done in all well regulated factories. There will be some discontent amongst those who are thrown out, but they will find other employment in agriculture or other pursuits. In retrenching, the girls who have come in with medical certificates will go first then the absentees, that is those who have put in less than 50 per cent of the possible attendance in the 12 months ending 30th April 1948 and then those who have been continuously absent for one month (30 days) in the year ending 30th April 1948, and lastly those with the least years of service.

Wages and dearness allowance.

11. The shellers and the peelers who form the vast majority of workers are paid piece rates. The rate includes both basic wage and dearness allowance. In most of the factories the shellers get 10 pies per pound of whole kernels shelled. No payment is made for brokens. In the Maidan factory of Peirce, Leslie & Co., a higher rate is given because the nuts handled there are more difficult. In the Konchady factory 12 pies per pound are given to two workers, but as they shell by machine their outturn is more and so they earn about the same as the workers in other factories.

The peelers in all the Peirce, Leslie factories peel the easy kernels with fingers, but in all the other factories blades are used. Fingers do become painful when peeling has to be done for six or

seven hours a day, but they pay the same rates of wages as in the other factories, viz., 10 pies per pound for wholes. It is claimed that because of the centrifugal and hot air chambers, shellers and peelers in Peirce, Leslie & Co., can produce more and earn more. But S. D. Ramachandra Nayak has filed a statement which shows that his best shellers too have done as much as 26, 27 and 28 lb. and that his best peelers have done 20½ lb. wholes and one as much as 24 lb. which is considerably more than what the peelers in the Maidan factory of Peirce, Leslie & Co., have done. In the Jeppu factory the average for the best peelers is about 21 lb.

12. All the managements contend that they cannot afford to pay any higher wages or dearness allowance and as it is, they have sustained losses. They plead further—

(1) that no reasonable forecasts can be made of the Indian crop or of the imports of the African crop.

(2) that the prosperity of the industry is entirely dependent on the American market and the prices to be got there, and

(3) that any raise in wages will tell upon the Mangalore factories only, while the factories at Calicut, Quilon and other places with cheaper labour will be able to sell their goods cheaper.

As regards this last argument, it would mean that there can be no improvement in the lot of the workers in Mangalore unless at the same time, there is an improvement in Quilon. And if some one agitated for improvement in Quilon, he will be met with the same argument, that no improvement can be effected there unless the conditions in Mangalore also were improved at the same time. And so the present conditions should continue indefinitely in both places, because there is no means of compelling both places to move forward simultaneously. Just as prices adjust themselves in spite of political barriers so wages also will adjust themselves. It is not to be expected that if conditions improve in Mangalore, the workers in Quilon will not hear of it, and will not desire to approximate their conditions to those of Mangalore. It may be safely predicted that Quilon will very soon have to alter her conditions if conditions change in Mangalore. But some one must begin.

13. Two statements have been filed by the managements to show that no increase at all can be given now, and in fact they would be justified in reducing the wages. The cost of processing 16,000 bags which will yield roughly 500,000 lb. of broken and whole marketable kernels, and the result of trading have been worked out. This would represent the quantity handled by Fernandez Bros., Mallya Nayak & Co., and others and would be about one-tenth of what the three factories of Peirce, Leslie & Co., would handle. The net loss is shown at Rs. 92,188. It is strange that if this is the real state of affairs that S. D. Ramachandar Nayak should have made a profit of about Rs. 32,000 for the year ending 31st August 1947 and a profit of Rs. 11,000 in the preceding year. The lorry hire to convey

16,000 bags to factory site has been put down at Rs. 8,000, a sum perhaps sufficient to buy a lorry. Loading and handling per bag at Bandar is stated to be 1 annas per bag. If a worker handles four bags in an hour and works eight hours a day, he would earn Rs. 8 at the Bandar which appears to be fantastic. Interest on capital contributed by the partners and on borrowed capital is allowed at the liberal scale of 8 per cent and this accounts for 31,000 rupees. The managing agents are allowed besides Rs. 33,000 as remuneration. Nothing is mentioned of the oil recovered or the price obtained for it. Travelling, telephone, repairs, charges are all allowed on a liberal scale. The other statement I referred to shows that even if I increase the wages by only one pie, Peirce, Leslie & Co., will have to pay Rs. 61,776 more and each of the other factories Rs. 6,864 more. The basis in each case being a unit of 16,000 bags.

Says Beveridge in his Full Employment:

"The correlative to acceptance by trade unions of an arbitration clause in all collective bargains would be acceptance by employers in all important industries of standardized accounting practice and their readiness to put all facts as to profits, costs and margins unreservedly at the disposal of the arbitrator and expert staff for criticism."

The empolyers are all unwilling to show even their balance sheets to the union officials. The workers are illiterate and cannot make anything of the statements filed. I have to do what I can without any expert assistance. Mr. Bhaskar Rai, who appeared for the workers did get copies of the statements but he did not have much time to scrutinize them. Peirce, Leslie & Co., have many concerns, and although separate accounts are maintained allocations of common expenditure have to be made, and here there may be difference of opinion.

14. A statement has been filed by Peirce, Leslie & Co., showing the actual daily earning of female labour at Kulasekhar during July to October 1947. Twelve peelers got one rupee or more a day out of 440 peelers and 6 shellers got one rupee or more a day out of 623 shellers. The average earnings of adult females was As. 10–3 per day. I have carefully considered all the materials placed before me and I have come to the conclusion that a better system of rewarding labour can be devised and that the industry can bear any additional burden this may involve.

At present the shellers and peelers get a uniform rate of 10 pies per pound shelled and of wholes peeled. I would vary the piece rates thus. For the first 10 pounds 6 pies per pound. From 11th to 15th pound 1½ annas per pound. From 16th to 20th pound 2 annas per pound. From 21st to 25th pound, 1 anna per pound and from 26th to 30th pound, 6 pies per pound. A worker who shells or peels (wholes) 22 lb. will get (0 5 0 + 0-7-6 + 0-10-0

+0-2-0) Rs. 1-8-6. This will include dearness allowance also as at present. In Peirce, Leslie & Co., where peeling is done with fingers, every peeler will get an allowance of 1 anna a day in addition to the above piece rates. Both shellers and peelers will get an attendance bonus of 2 annas a day for regular attendance of 11 days in 12 days (two weeks). The rates for peeling brokens will continue as at present. No payment will be made for brokens in the shelling department.

In the Kanchody Oil factory the shelling is by machine and two workers are put on each machine. They are together paid 1 anna per pound. This will be raised to 15 pies per pound. The raw nuts are shelled in this factory and the workers have to handle the shells with the oil exuding from them which is injurious to the skin. No separate dearness allowance need be given. These workers also will be given attendance bonus at 2 annas per day if they attend 11 days in 12 (barring two Sundays in two weeks).

15. The roasters, graders and other workers who are paid by the day will have their wages and dearness allowance raised by one-third. Thus a worker who is now getting 12 annas a day will get Re. 1 (basic and dearness allowance inclusive). All these workers will also get the attendance bonus of 2 annas a day for eleven days attendance in 12 days.

Bonus.

16. Fernandez Brothers is a new company and has not made any profits. The others are all comparatively older and better established. Even S. D. Ramachandra Nayak's who admit they have made a profit in 1947 have not paid any bonus. Peirce, Leslie & Co. have paid bonus to their clerical staff but not to their productive workers. Even in years when the company made profits, no bonus appears to have been paid to these workers, probably because they were regarded as casual workers. I think that all the workers in all the factories except Fernandez Brothers, who have put in at least 50 per cent of the total possible attendance in 1947, should be paid one month's bonus calculated on his or her average monthly earnings for that year.

Welfare—Creches, canteens and rest shelters.

17. With several thousands of women workers working in the cashew factories, one would expect to see well-equipped creches and a number of children in them. Some of the newer factories have no creches at all. The older ones have creches only in name. Not one baby is to be found in any of the creches. There is no cot, no mat, no cradle, nothing but bare walls. The creche in the Maidan factory was worse than none. It is a portion of a verandah where workers were working in coffee. No woman would consent

to leave her baby here to inhale the coffee dust. Regarding the creches maintained by the Begg Sutherland group of mills, the Labour Investigation Committee say " The creches are equipped with hanging cradles and cots, mattresses, sheets, blankets and all other necessary equipment. The children are kept clean, being washed and clothed in fresh garments every day, toys, biscuits and nourishing food are also provided by the management. In the Madura Mills, a creche is being maintained in a spacious building, with a kitchen attached to it, from which children are supplied free meals, milk, fruit, etc." The Committee goes on to observe " These are merely illustrations of the facilities provided by enlightened employers, but generally speaking the attitude of employers is not very favourable to the provision of creches." It would be perhaps too much to expect even Peirce, Leslie & Co., to provide the facilities which Madura Mills, with their great resources, can provide in their creche. But there is no excuse for making a pretence of maintaining a creche when you do not want to put yourself to any expense about it. No babies are brought because the place is so uninviting. I am certainly of opinion that the creches should be better located and better equipped if they are to serve any purpose at all.

Creches are not properly equipped because no babies are brought to the factories by their mothers, canteens are not efficiently maintained because the workers prefer to take their tea or snacks elsewhere. This is the stock excuse. Fernandez Brothers have rented a shop to a tea vendor who sells eatables to the workers and other passers-by. The Maidan factory canteen supplies sweet potatoes, boiled and jaggery coffee. The only merit about this canteen is its cheapness. There is not even a place where the workers can sit down and eat their potatoes. Rest shelters are provided in some of the factories, but the places are not made interesting. Very little thought is bestowed by any management on these welfare questions. The letter of the law is all that they want to observe. A radio set, a few tables and benches a few illustrated magazines and newspapers, a small library could make the rest shelter a really attractive place.

Maternity benefits.

These are granted to eligible women. In one case, in Fernandez Brothers, it was said that a worker had not been given maternity benefit, but it was stated she had not put in requisite attendance.

Working conditions.

18. Shelling and peeling are done in long big halls. They are well ventilated and lighted. But the workers have to sit on a brick, a piece of stone or a block of wood and the nuts are kept on a brick and broken. A few workers have small planks to sit on. The

workers sit on their haunches and crouch on their work. It is not a comfortable posture to be in for hours together. I think that, if better working conditions are provided, the output will increase as there will be less fatigue to the worker. The shellers have frequently to smear their hands with ash as the shell oil which spurts when the nut breaks is injurious to the skin. I found the hands of a worker from Fernandez Brothers very badly discoloured. They agreed to supply gloves. Much ingenuity and thought has been spent by Peirce, Leslie & Co., in improving the machine, but very little seems to have been spent in improving the working conditions of the worker. Surely it is easier to invent a glove which will protect the sheller's hand and still allow her to work freely than to invent the oil immersion roaster. But nothing in this direction has been attempted so far. I found in the Maidan factory a worker wearing on her left arm an old stocking cut out at the foot end also; another had a cloth tied round her arm. I found a few workers with pieces of old gunnies on their feet, or with old big shoes to protect their feet. Surely, these discomforts are not irremediable. They could be remedied with a little thought and at a little cost.

Peeling.

19. The workers in the factories of Peirce, Leslie & Co., have to peel the easy kernels with their fingers while in all other factories the workers are allowed to use knives or bamboo blades. If a piece of the kernel is chipped off when peeling, it leaves a mark when the nut is cooked and the American market of Peirce, Leslie & Co., requires that there should be no spots. Peeling with the fingers does make it painful and I think the only satisfactory solution is to give an extra allowance for this which I have already provided. The system now prevailing in the Peirce, Leslie & Co.'s factories regarding peeling will continue.

Closure of factories.

20. As already stated, the factories work part of the year on the Indian nuts and part of the year on African imported nuts. It happens that sometimes there is no stock left and so the factory is closed and the workers are sent away. When the next consignment arrives, the factory is opened again. I asked the managements whether they could suggest any way of giving work to the workers throughout the year and they all said it is impracticable if not impossible. I suggested a five day week and this did not meet with any satisfactory response. With a regulated and permanent labour it must not be difficult to spread over the work throughout the year. As I have already suggested the regulation of labour, the managements will find it easy when they give effect to it to spread the work throughout the year. So I shall not make any recommendation on this head.

Union.

21. The union wants to be recognized by the managements. If they are unwilling, it must wait until Labour Courts are established under the amendment to the Trade Unions Act.

Dismissals.

22. Of the ten workers of Peirce, Leslie & Co., who were dismissed, one Parameshri has been reinstated. As regards the other nine, the case against Saraswati was that she preferred a false charge of bribery against Ramakke, the Mukkadam. The others took part and incited others to take part in an illegal and lightning strike.

Saraswati stated that though she was absent for half a day, Ramakke had marked her present and had got her 5 annas and that this unlawful wages was given to Ramakke. The case was investigated and Saraswati varied her story in material particulars. The manager thought her charge was false and dismissed her. I do not think there are any good grounds for interfering with the order of dismissal.

As regards the other eight, the charge was that they would not peel the kernels without blades and incited the other workers to come out on a strike without any excuse. These workers refused to peel without blades, that is, they wanted to work on their own conditions which of course cannot be permitted. There was no demand, negotiation and the usual preliminaries to a strike. Workers must learn to be disciplined. They must also realize that a strike is the last resort and not the first weapon to attack the employer with. The dismissals will stand.

23. As a result of my findings there will be an award in the following terms :—

(1) The workers employed in all the cashew factories in Mangalore will be classified as permanent, temporary, etc., as provided in the Model Standing Orders.

(2) The managements will make an estimate of the number of permanent workers required on the basis of the output of the efficient workers as indicated in paragraph 10 supra.

(3) If there is to be a retrenchment, workers will be discharged in the following order :—

(*a*) Young girls who are now working on the strength of medical certificates will go first and of these the youngest first.

(*b*) Workers who have put in less than 50 per cent possible attendence in the 12 months ending 30th April 1948 will go next, and after this, workers who have been continuously absent for 30 days (working) and more at a time during the same period.

(*c*) Lastly, workers with the least number of years of service will be discharged.

(4) Basic wage and dearness allowance will be combined as at present, but the rates will be increased as stated in paragraphs 14 and 15 above and these revised rates will come into effect from 1st April 1948.

(5) Bonus will be paid as provided in paragraph 16.

(6) Creches, canteens and rest shelters must be improved and made really attractive.

(7) The dismissal of the nine workers Saraswathi, Radhu and the rest is upheld.

(8) Regarding working conditions, etc., no specific recommendations are made, because the works committees that will be set up will be in a better position to deal with these matters by negotiation especially as some of the remedies may have to be tried as experiments before they are finally adopted.

Order—No. 2704, Development, dated 26th May 1948.

Whereas the award of the Industrial Tribunal, Coimbatore, in respect of the Industrial dispute between the workers and managements of Cashew Processing Factories in Mangalore has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrials Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the managements of the Cashew Processing Factories in Mangalore and the workers employed therein and directs that the said award shall come into operation on 26th May 1948 and shall remain in operation for a period of one year.

2. The Commissioner of Labour is requested to send a copy of this order with a copy of the award to the managements of the Cashew Processing Factories and to the union of workers concerned.

(By order of His Excellency the Governor)

C. P. MADHAVA MENON,
Assistant Secretary to Government.

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XXIX.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI M. VENKATARAMAIA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF HOTELS AT KANCHIPURAM

and

THE WORKERS.

Subject.—1. *Classification of workers and adequacy of wages paid.*—*Held* that the workers were in many cases getting the minimum scales of pay demanded by the Workers' Union and that the maximum demanded was too high. Scales of pay for different categories of workers and increments fixed. *Held* also that where the workers did not get any increment in the past year, they should be given one increment as per the scale fixed.

2. *Dearness allowance.*—*Held* that most of the workers in the hotels were bachelors and that they were served meals, coffee and tiffin and that there was no case for grant of dearness allowance.

3. *Amount of work for servers.*—*Held* that one server should be employed for eight seats.

4. *Bonus, Provident Fund and Gratuity.*—*Held* that it was enough if a provident fund was started. Held also that as the hotels had made profits, they should pay one month's salary as bonus.

5. *Employment of extra staff or payment of extra wages during festivals.*—Left to the discretion of the managements.

6. *House rent allowance.*—Demand negatived as the workers were mostly residing in the hotels.

7. *Confirmation in service.*—*Held* that the Shop Assistants Act would govern their conditions of service and that normally a person who had put in one year service should be deemed to be permanent.

8. *Whether the termination of services of certain workers wrongful and what redress should be given.*—*Held* that the discharge of Ramachandra Ayyar was wrongful and that the worker should be paid his salary from 15th August to 1st October 1947.

Held that the discharge of Vasudeva Nambudri and Natesa Ayyar had not been proved to be wrongful.

Held that the discharge of Vadivelu and Munusami pending the adjudication was illegal and the discharge without enquiry was unjustified. Ordered payment of wages from the date of discharge till the date of reinstatement.

Held that the workers should be reinstated in service.

9. *Recognition of the Union.*—Recommended recognition of the Union by the Hotels' Association.

G.O. Ms. No. 2705, Development, dated 26th May 1948.

[Labour—Disputes—Dispute between the workers and managements of hotels at Kanchipuram—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 269, Development, dated 20th January 1948.

(2)

From the Industrial Tribunal, Madras, dated 1st May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

SRI M. VENKATARAMAIYA, B.A., B.L.

INDUSTRIAL DISPUTE NO. 2 OF 1948.

[In the matter of the industrial dispute between the workers and managements of hotels in Kanchipuram.]

AWARD.

1. The dispute referred to the Industrial Tribunal for adjudication in G.O. Ms. No. 269, Development, dated the 20th January 1948, was stated to be between the workers and the managements of the hotels in Kanchipuram. On a reference to the Labour Officer, Madras, he has furnished a list of hotels, copy of which is appended hereto. Of the 41 mentioned therein, three are said to have been closed and none of the workers therein has appeared. The only persons who appeared are the proprietors of the Santana Kishna Bhavan, New Model Lunch Home, Sarada Vilas, Krishna Bhavan, Nehru's Cafe, and Mr. T. S. Ramanujam for the workers and the Secretary of the Hotel Employees' Association.

2. Seven witnesses for the wokers and three for the hotel proprietors were examined.

3. Notices were issued to all the 41 hotels but the proprietors of 15 hotels only filed a statement. One other, the Mysore Sadananda Bhavan, reported that his workers had no demands and sent a petition signed by the proprietor as well as by 20 workers of that hotel to that effect. Another hotel proprietor, Sri Kumaraswami Mudaliyar, has filed a statement for himself.

Issue No. 1.—What are the categories of workers employed in the hotels—Are the wages now paid to them adequate? If not, what will be the reasonable wages for them?

4. In their statement, the workers have referred to ten categories of workers and it is now admitted that there is no watchman employed in any of the hotels in Kanchipuram. The scales of pay for the other nine categories are not too low and on the evidence that I have recorded, it became apparent that there is not much

difference in the initial stages of pay which is now in vogue and which the union demands. P.W. 1, G. P. Kesavan, is a supplier, i.e., a serve in Inbacholai Hotel and he states that the 'peria adupu' in his hotel gets Rs. 60 a month and the 'china adupu' Rs. 45, the 'aravai' (grinder) Rs. 35, the assistant grinder Rs. 30, the suppliers, who are five in number, get Rs. 37-8-0, Rs. 32, Rs. 30 and Rs. 25, the maistri or the store-keeper gets Rs. 18, the cleaners get between Rs. 10 and Rs. 14 and the woman servant Rs. 7 and she works only in the morning and evening. P.W. 2, Ramachandra Ayyar, is a chinna adupu and gets Rs. 45. He works in the Kailas Bhavan Hotel and before that he was in the Arya Bhavan, there also getting a pay of Rs. 45. Prior to that, he was a supplier or a server for ten and a half years on a salary of Rs. 35. P.W. 3, K. P. Krishnamurthi, is a peria adupu in Sarada Vilas on a salary of Rs. 50 a month. P.W. 4, K. V. Krishnamurthi, is a peria adupu in the Bombay Kailas Bhavan on a salary of Rs. 60 a month. P.W. 5, P. S. Mani Ayyar, is an aravai and is paid Rs. 37-8-0: P.W. 6, P. Munuswami, is a cleaner in Arya Bhavan on a salary of Rs. 16 and his services have been dispensed with 15 days ago on the ground that the business has gone down. P.W. 7, K. Raman, is a supplier in Sankar Cafe on a salary of Rs. 35 a month.

5. The statement of claim filed by the workers' union demands Rs. 50—5—125 for peria adupu, Rs. 15—4—105 for chinna adupu, Rs. 10—3—55—3½—90 for aravai, Rs. 35—90 for assistant grinder, Rs. 35—105 for supplier or server, Rs. 35—2—65 for store maistri, Rs. 30—65 for cleaner, Rs. 30—1—45 for servant-maid and Rs. 45—4—105 for the cook (in the meals section). It will be observed that, except in three or four categories, all the others are getting the salary within the range as per the workers' demand. The maximum demanded seems too high. The hotels in Kanchipuram are working on good business lines and the hotel proprietors have, on the whole, been treating their employees with consideration and well and all the witnesses who gave evidence before me appear contented with salaries they are getting. The manner in which they were questioned and spoken to by the proprietors who appeared before me showed also that the proprietors did not treat them as other employers do with their employees. A few of the hotel proprietors are educated young men who have settled down in that town for carrying on this trade and appeared quite reasonable.

All the workers in the hotels get besides their pay, pocket money of 1 anna, 2 annas, 3 annas or 4 annas every day. This is called dakshina. A peria adupu for instance is paid 4 annas in some hotels and 3 annas in some other hotels. The suppliers are paid 2 annas every day. Though this cannot be said to compensate for the dearness allowance, yet it is a factor to be taken into account in considering the total emoluments of the workers.

6. It will be too much of a strain to fix the minimum that the workers have demanded. I accordingly fix the following scales for the different categories of workers in the hotels in Kanchipuram :—

		RS.
(1)	Peria adupu, i.e., chief cook, refreshment section ..	50—5—80.
(2)	Chinna adupu (junior cook, refreshment section) ..	40—2½—60.
(3)	Aravai (grinder)	30—2½—50.
(4)	Assistant aravai (grinder)	30—2—40.
(5)	Server	30—2—60.
(6)	Store maistri	25—2—45.
(7)	Cleaner	20—1—25.
(8)	Servant women	10.
(9)	Cook (meals section)	45—3—60.

N.B.—The servant woman is a part time worker who works for three or four hours in the morning and three or four hours in the afternoon and gets meals twice a day and her work is mostly cleaning of vessels.

7. It should be understood that any worker who is now getting a particular salary shall not have his salary reduced by virtue of this award. Some of the hotels have not been giving increments and those who have not given any increment within the last one year shall now give one increment in accordance with the above scales. Mr. Santhana Gopala Ayyangar, Proprietor of the Santhana Krishna Bhavan, stated that he has been giving increments of Rs. 5 to some and Rs. 3 or Rs. 2 to other categories of workers but his statement was challenged. He then brought his account books which were examined by Mr. T. S. Ramanujam and Mr. Sankar. It is a fact that he has paid the increment for the last four years.

8. The workers in all the hotels will now be placed in the scales above mentioned and will be given one increment if the same has not been given within the last one year. If no increment has been given within the last one year, the next increment will be at the rate above mentioned.

Issue No. 2.—Whether dearness allowance should be paid. If so, at what rate?

9. The contention of the employer is that inasmuch as all these workers in the hotels get meals during both day and night and also their morning and afternoon tiffin, there is no case for grant of dearness allowance. It is a fact that all the workers get these, and also that most of the workers have no residences of their own. This contention is met by the union in this way. A unit of labour family is nearly five and if one member of the family is getting food in the hotel it cannot compensate for the portion of the allowance on account of dearness of food with regard to the other four. Therefore dearness allowance must be given but it may be four-fifths of what may be allowed in other cases. Witness after witness has stated about the condition of the premises of the hotel where they have to sleep, and one man K. Raman said that the hotel was

so dirty that he sleeps by the roadside. Except a very small number, the workers spend all the time, day and night, in the hotel itself and they are bachelors. The married man with a family is only one exception. I do not think that in the case of these hotel employees any case for the grant of dearness allowance arises.

Issue 3.—What should be the number of workers to be employed in a hotel or restaurant of fixed number of seats.

10. In some hotels, a man has got to attend to as many as 12 seats while in some others the workers are made to attend to eight only. For good business and attention, I think one server for eight seats should be the standard.

Issue No. 4.—Whether bonus, provident fund and gratuity should be introduced.

11. None of the hotels has given bonus, provident fund or gratuity. Many of these hotels are of recent growth. It is time that a scheme for provident fund is started. There is a Hotels' Association and there is a workers' union. Both these bodies may meet through their representatives and draft rules for the institution of provident fund. Three representatives of the hotel proprietors and three representatives of the hotel workers may meet within the course of one month and settle the draft rules and send the same to the Commissioner of Labour, the contribution to be one anna per rupee by the employer and the employee. A good provident fund scheme is one of the best means of securing security of service to the employee and a guarantee to the employer that the employee will not jump from one hotel to another as he is said to be doing now. For the present, a provident fund scheme outlined above will meet the ends of justice.

12. The proprietors, who were present, while admitting that no bonus as such was paid, represented that they gave presents for Pongal, Dipavali, and it is unfortunate that even this was denied at one time by the workers. Mr. R. V. Rama Ayyar of Sarada Vilas produced his account book which showed that he gave to the workers Pongal presents in the shape of cash amounting to Rs. 46. But the payment of pongal present is not a bonus. Bonus is paid on account of profits earned and a present partakes the nature of an affectionate gift. All these hotels have made very good profit and one of them has made as much as Rs. 10,000 in a year while another has made Rs. 5,000, and in spite of being asked to produce their account books or to state the profits, except a few the rest have not chosen to produce any data. But all of them admit that they have made profit. I have decided in the circumstances to direct that for the year-ending 31st March 1948, the workers shall be paid a month's salary as bonus, the salary being what they were getting on 1st January 1948. Unless there was a loss, it is desirable to follow this rule that the workers shall be paid one month's salary as bonus every year

Issue No. 5.—Whether extra staff should be employed during festival days or extra wages should be paid.

13. There are two festivals, one in Panguni and the other in Vaikasi when there is a large concourse of pilgrims coming into the town and extra business is being done in the hotels. Mr. R. V. Rama Ayyar, Proprietor, Sarada Vilas, states for the Garudothsavam he pays Rs. 5 to the cleaners, Rs. 7 to the suppliers and Rs. 8 to the peria adupu. From what the witnesses have said, it is not clear whether they want the employers to employ extra hands during those festival days or pay some extra remuneration to them. I think it must be left to the discretion of the managements. The workers will in no way be benefited if extra hands are employed. It is true that they may have to work extra hours. Inasmuch as the workers are being paid extra moneys during the festival days I do not see any necessity to direct that extra hands should be employed by every hotel. The difficulty will come in now because of the eight hours rule. The extra payment may be taken in the nature of overtime. It is also mentioned that not all the hotels have a larger volume of business during the festivals. I am informed that during the Panguni festival there is hardly any increase in the hotels in Hodsonpet.

Issue No. 6.—Whether the workers should be paid house-rent allowance. If so, how much?

14. There is no case for the payment of house-rent allowance. Most of the workers spend their time in the hotel, itself and a few that have a room or house of their own are sufficiently paid to pay a small sum of Rs. 3 as house-rent which one or two workers said they were paying.

Issue No. 7.—What length of service should be enough to make a worker permanent.

15. It is difficult to say which worker is permanent and which is not permanent as things are at present. It has been elicited that one worker left the service in a hotel and went to another where he worked for three months and came back to the former one. There is no regular permanent establishment with all that it connotes. It is time that it is organized in a proper manner and the workers are given privileges which the law has given to them such as weekly holidays, privilege leave, casual leave and sick leave. All these are now regulated by the Shop Assistants Act. The grievance of the workers is that they are not given these facilities. The only thing that is now being given to them is the weekly off-day. Until the institution of a provident fund and a regular working of the above acts, it is useless to lay down a rule as to what length of service should make a man permanent. Ordinarily one year's service is deemed enough. In the present case it is enough to say that every person, who has put in one year's service shall be entitled to contribute towards the provident fund and the moment he begins

to contribute to the provident fund he must be deemed to be a permanent employee. In other words a service of one year will entitle him to all the benefits of permanent service.

Issue No. 8.—Whether Ramachandra Ayyar, Vasudeva Nambudiri,, were wrongfully discharged. If so, what redress should be given. Whether T. N. Natesa Ayyar was reduced to lower grade and was it unjustifiable.

16. A few people who have been removed from service apply for reinstatement.

Ramachandra Ayyar.—He was a chinna adupu in the Arya Bhavan hotel on a salary of Rs. 45 and was removed from service on 15th August 1947. He got a job in Kailas Bhavan on 1st October 1947. The dismissal is clearly wrong and unjustifiable. On the Independence Day (15th August 1947) it was notified that it should be a holiday for all concerns. The Collector as well as the Tahsildar notified that it should be observed as a holiday by everyone and so says P.W. 4, Krishnamurthi, the proprietor also said that he need not attend on the 15th August. But it appears late in the day the Ration officers and the Tahsildar said that the hotels should be kept open and so what happened was that with such staff as they could get or by employing new hands hotels were run for half a day, i.e., in the morning, and Santana Krishna Ayyangar also says that he gave a half holiday. Ramachandra Ayyar was dismissed on the ground that he did not turn up on the 15th August. When he went on the 16th he was told his services were not required. No enquiry was held and therefore the dismissal was wrong and he should have been taken back into service on the 16th when he turned up. As I have already stated the Arya Bhavan proprietor has not chosen to contradict the witness's statement which is to the effect that he was discharged on the ground that he "took part in the Independence Day celebration." I direct that his pay should be paid from the 15th August 1947 till the 1st October 1947 at Rs. 45 a month by the Arya Bhavan proprietor. The witness further says that his pay even up to 15th August has not yet been paid. But that is a matter of contract and if it has not been paid I hope the proprietor will pay it at least now.

17. *Vasudeva Nambudri.*—He has not appeared and no reason has been put forward to say that his removal was for unjustifiable grounds. The same should be said of T. N. Natesa Ayyar also.

18. *Vadivelu* was discharged by the proprietor of Krishna Bhavan and the proprietor K. V. Viswanatha Ayyar admits that he made no enquiry before the dismissal. The reason for dismissal was that he did not turn up on Monday and Tuesday and when he turned up on Wednesday he was told his services were not required. This is a clear case of injustice. What is worse is that Vadivelu was in the hotel itself even on the days on which he is said to have been absent and the reason for absence from duty is that Vadivelu

was sick. When questioned on the subject Viswanatha Ayyar says, "he was not so sick as not to work." What enquiry he made on the day is not known and how he came to know that he was not so sick as not to work is not disclosed. The discharge of Vadivelu during the pendency of this enquiry is an illegal act.

19. *P. Munuswami*, who has been a cleaner for the last three years has been dismissed during the pendency of this enquiry on the ground that the business has fallen but his juniors are still working. The proprietor of Arya Bhavan has no grounds to justify this summary dismissal of a worker and I direct that the proprietor of Arya Bhavan should reinstate P. Munuswami, cleaner and the proprietor of Krishna Bhavan should reinstate Vadivelu. They should be paid the salary which they were drawing from the date of their discharge till the time of their reinstatement.

20. The Union brings to my notice certain matters connected with the working conditions. The hotels must be kept clean and tidy, especially when this is a place where the workers have got to take rest during nights, every care should be taken to see that the place is well ventilated and kept clean. Now that the Shop Assistants Act has come into force the leave to which they are entitled must be given to them and to ensure this the officers connected with the Labour Department should be instructed to see whether each worker is given the leave to which he is entitled. Even sick leave is now being denied and most of the workers now working in the hotels in Kanchipuram have put in more than two years of service so that almost all of them will be entitled to some kind of leave or other.

21. On weekly off-days the workers are given meals and tiffin in the hotel but one item of demand now put forward is that if a worker goes out of town he must be paid in cash the value of that meal and tiffin. I think this is an extraordinary demand. He is given a day-off and he can go about the town or take rest as he likes and he is given the further concession of having free meal. If, however, he goes to take his meal in his sister's house or brother's house, it is manifestly unfair to demand of the hotel proprietor that the food value should be paid to him in cash. The same remarks will apply if the worker goes to places outside Kanchipuram.

22. Regarding the recognition of the Union like many employers who have not yet seen their way to view trade unions sympathetically, the hotel proprietors of Kanchipuram also do not appear to like trade unions activity. Santhana Krishna Ayyangar has, however, been very friendly to the Union—at least in my presence he was so—I do not, however, see how I can compel the Hotels' Association to recognize the Union. Recognition of a Union does not by itself bring great benefits to the working classes. They will have to consolidate themselves and put up reasonable demands or object to unreasonable actions of the hotel employers and if they

have good cause they will succeed in obtaining a hearing from the Hotel's Association. As a matter of fact a few of the hotel's proprietors themselves were workers until not long ago. I can merely recommend to the Hotels' Association that they will do well to recognize the union and carry on negotiations with the union to bring about better relations between themselves and their workers.

APPENDIX

List of hotels in Kanchipuram.

No.	Hotel	Location
1	Raja's Cafe	All these hotels are in Hodgsonpet, Kanchipuram.
2	Arya Bhavan	
3	Santana Krishna Bhavan	
4	New Model Lunch Home	
5	Kailasa Bhavan	
6	Kamakshi Cafe *	
7	Sankar Cafe	
8	Inba Cholai	
9	Bombay Ananda Bhavan *	
10	Raja Lakshmi Vilas	
11	Madhavan Nair Military Hotel	
12	Sarada Vilas	All these hotels are located in Rattai Mandapam Circle, Kanchipuram
13	Rama's Cafe (Shaikpet)	
14	Rama's Cafe	
15	Gajendran Cafe	
16	Victory Restaurant	
17	Banu Military Hotel	
18	Mysore Cafe	
19	Krishna Vilas	
20	Krishna Vilas (Mittai Kadai)	
21	Lakshmi Lunch Home	
22	Lakshmi Vilas (Taluk Office)	
23	Gajapathi Lodge	
24	Thana Lakshmi Vilas	
25	Natesa Ayyar Mittai Kadai	All these hotels are located in Big Kanchipuram.
26	New Sankar Vilas	
27	Ramakrishna Lunch Home	
28	Krishna Bhavan (Theradi)	
29	Nehru's Cafe	
30	Mysore Sadananda Bhavan	
31	Padmanabha Nair Military Hotel	
32	Krishna Bhavan (Kammala Street)	
33	Ramachandra Lunch Home	
34	Ananda Vilas (Railway Station)	
35	Modern Cafe	All these hotels are located in Little Kanchipuram.
36	Ganapathi Vilas	
37	Kannan Cafe	
38	Lakshmi Cafe	
39	Mahalakshmi Lunch Home	
40	Jyothi Coffee Hotel *	
41	Komala Vilas	

* Denotes hotels which have been closed.

Order—No. 2705, *Development, dated* 26*th May* 1948.

Whereas the award of the Industrial Tribunal, Madras, in respect of the industrial dispute between the workers and the managements of Hotels in Kanchipuram, Chingleput District, has been received;

Now, therefore, in excercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras

hereby declares that the said award shall be binding on the managements of hotels in Kanchipuram and the workers employed therein and directs that the said award shall come into operation on 26th May 1948 and shall remain in operation for a period of one year.

2 The Commissioner of Labour is requested to send a copy of this order together with a copy of the award to the managements of hotels and the workers' unions concerned.

(By order of His Excellency the Governor)

C. P. MADHAVA MENON,
Assistant Secretary to Government.

XXX.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

SRI M. VENKATARAMAIYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE THIRUMAGAL MILLS, GUDIYATTAM

and

THE WORKERS.

MR. A. T. KRISHNAMACHARI—*on behalf of the Management.*

MR. P. BALACHANDRA MENON—*for the Workers.*

Subject.—1. *Dismissal of three workers—whether justified.*—*Held* on the evidence that their dismissal was for unauthorized absence in two cases and for theft of bobbins in the third. *Held* that the dismissals were justified.

2. *Retrenchment of watchmen.*—*Held* that consequent on the raising of the compound wall there was no need for six watchmen. *Held* retrenchment was inevitable.

3. *Whether head jobber should be replaced by another.*—*Held* that the demand by the Union is not reasonable.

4. *Provident fund.*—Company is taking steps to institute provident fund. Hence no orders necessary.

5. *Housing—whether should be rent free.*—*Held* that even under the Government of India Scheme labour should contribute reasonable rent. Demand negatived.

6. *Medical aid.*—*Held* that the medical aid now available is not adequate.

G.O. Ms. No. 2706, Development, dated 26th May 1948.

[Labour—Disputes—Dispute between the workers and management of the Thirumagal Mills, Gudiyattam—**Recommendations of the Industrial Tribunal—Orders passed.**]

READ—the following papers :—

(1)

G.O. Ms. No. 402, Development, dated 28th January 1948.

(2)

From the Industrial Tribunal, Madras, dated 19*th April* 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

SRI M. VENKATARAMAIYA, B.A., B.L.

INDUSTRIAL DISPUTE NO. 3 OF 1948.

[In the matter of the industrial dispute between the management and workers of the Thirumagal Mills, Limited, Gudiyattam.]

AWARD.

1. The above dispute was referred to me for adjudication by G.O. Ms. No. 402, Development, dated the 28th January 1948.

2. Mr. A. T. Krishnamachari appeared on behalf of the management and Mr. P. Balachandra Menon for the workers.

3. In this dispute except one all other points are covered by the award of the Industrial Tribunal on the conditions of labour in Textile Mills in the Madras Presidency. Mr. P. Balachandra Menon appeared for the workers and filed a statement and on behalf of the management a reply has been filed and since then no one has turned up on behalf of the workers. Mr. Krishnamachari representing the management has been attending all the adjournments. To-day none appeared for the workers and Mr. Krishnamachari represents to me that the present circumstances are such that for some months to come none connected with the union is likely to appear, and he also states that most of the points raised do not require a decision as the matter has become only "academic." I do not see any reason to keep this dispute pending for any length of time hereafter. The union, as I said, is not represented and the Secretary, one Mr. Kothandaraman, is said to have gone "underground." Those connected with the union appear to be communists who are not to be seen in Gudiyattam or anywhere else.

4. Three persons, viz., Gangadharan, Varadammal and Parvati were removed from service and the union wanted their reinstatement. Gangadharan and Varadammal were dismissed for too much absenteeism, i.e., for unauthorized absence. Their attendance

shows that they have never been regular and as for Parvati it is said that she was dismissed because she stole "kandai" (bobbins). It is futile to say that they were dismissed on unjustifiable grounds.

5. Three watchmen were retrenched and this is objected to. The reason for the retrenchment was this. Formerly they had not a compound wall around the premises of the Mill and now they have built a wall all round and therefore there is no need for all the six watchmen which they had formerly. The retrenchment was therefore inevitable. There is no work for so many watchmen when there is a wall to protect the premises.

6. One other demand is that the head jobber who is now holding the place should be replaced by another man who is qualified. This can hardly be said to be a reasonable request that a union can put forward. The management is satisfied with the head jobber and the head jobber is reported to be doing his work satisfactorily. So this request is thoroughly unwarranted.

7. The other requests are that a Provident Fund Scheme should be introduced, Housing Scheme should be adopted and there should be more medical aid given. With regard to provident fund I have seen the papers to-day and the provident fund rules have been approved and a letter has been written to the Commissioner of Labour to approve of these rules with the amendments suggested by the Commissioner of Labour himself. I, therefore, think that no order need be passed on this subject. As soon as the rules are approved by the Commissioner of Labour the Provident Fund Scheme will come into force.

8. Regarding Housing Scheme there are already houses provided for some of the workers but not for all. Some of the houses are thatched ones and the management wants the workers living in them to vacate them so that they can be rebuilt. I do not know if the management is really justified in asking them to go or not. This is a subject in which I am not concerned, but there are houses that have been allotted to workers and if men who are not workers are occupying them the management will be justified in removing the non-workers. Another request is that the houses should be let free of rent. Even in the Housing Scheme for labour that the Government of India suggested it has been laid down that the contribution which the labour should make towards the Housing Scheme is the payment of reasonable rent. Therefore it is perfectly reasonable for the management, if they build houses for the workers, to demand reasonable rent.

9. With regard to medical aid there is a doctor who attends the mills twice a week. That is, in my opinion, not sufficient. There should be a Sub-Assistant Surgeon who attends daily to cater to the needs of the sick workers, and if possible to their families.

10. There is no other point which arises in this case.

Order—No. 2706, Development, dated 26th May 1948.

Whereas the award of the Industrial Tribunal, Madras, in respect of the Industrial dispute between the workers and management of the Thirumagal Mills, Gudiyattam, North Arcot district has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the Thirumagal Mills, Gudiyattam, and the workers employed therein, and directs that the said award shall come into operation on 26th May 1948 and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

C. P. MADHAVA MENON,
Assistant Secretary to Government.

XXXI

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

SRI C. R. KRISHNA RAO.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE THEMMALAPURAM BUS TRANSPORT, LIMITED, PALGHAT

and

THE WORKERS.

Subject.—1. *Recognition of the Union.—Held* that the Trade Union Amendment Act had not come into force yet and that the management could not be compelled to recognize the Union. Demand negatived.

2. *Whether the strike was illegal.—Held* that under the law, fourteen days should not be calculated from the date of receipt of the notice by the management and as the notice would normally have been delivered on the 7th November 1947, the Union should not suffer for any delay in the Post office or for absence of the addressee.

Held further that as the strike was commenced on the same day when the conciliation failed, it was illegal as being contrary to section 22 (1) (*d*) of the Act.

3. *Reinstatement of Sukumaran.—Held* that as the Union had previously agreed to drop the case of Sukumaran, it was not open to them to raise the matter again. Recommended for fresh appointment if the worker applied again.

4. *Discharge of Balakrishna Menon and Kuppusami Chetti.—Held* on the evidence that their discharge was for misconduct proved at an enquiry. Hence justified.

5. *Suspension of Raghavan Nair.—Held* that it was without satisfactory enquiry and that the punishment was awarded to please the Police officer. Ordered payment of average wages for the period of suspension.

6. *Suspension of Chockalinga Moothan.—Held* that the supen sion for 15 days for applying for leave without prior notice was too severe. Absence should have been treated as on leave on loss of pay. Ordered payment of average wages for 14 days to the worker.

7. *Suspension of Yakub.—Held* that the suspension was justified as the worker refused to work overtime and claimed overtime wages as a condition precedent.

8. *Confirmation of* 38 *workers.—Held* that these workers could not be directed to be made permanent, that there should be no discrimination between the new workers taken during the strike and the old workers and that all workers should be employed in strict rotation. *Held* that the charcoal coolies should be made permanent.

9. *Conductors' duties.—Held* that the conductor need not do pumping and cleaning except when there was a breakdown en route.

10. *Right of the Union to represent worker at the enquiries.—Held* that as the works committees were going to be constituted the Union need not be allowed to be present during enquiries against the workers.

11. *Interest on the security deposit.—Held* that the security deposited should be placed in the Post Office Savings Bank and interest credited to the worker.

12. *Whether the excessive fines levied by the company should be refunded.—Held* that the fines imposed were excessive and all fines collected in excess of the Payment of Wages Act should be refunded to the workers.

13. *Rest shelter en route.—Held* that the management should provide a room for the workers in halting stations.

14. *Whether Paru and Nachimuthu and temporary workers entitled to interim relief.—Held* that Paru and Nachimuthu should be paid interim relief and the question whether temporary workers were entitled to interim relief should be decided by the appropriate Tribunal.

15. *Welfare.—Held* that the workshops should be provided with ventilators; drinking water in clean pots should be provided. Rest shelters in workshops should be extended. Latrine should be kept clean.

16. *Free passes to workers.*—Agreement between parties confirmed.

17. *Cut in batta and salary for insufficient work.—Held* that salary including dearness allowance might be cut but not batta.

(NOTE.—The Award portion of the report states that batta and salary may both be cut for insufficient work.)

18. *Wages for the strike period.*—Claim negatived. Parties should abide by the Award of the Industrial Tribunal on Motor Transport Companies in the Province in respect of other issues.

G.O. Ms. No. 2724, Development, dated 27th May 1948

[Labour—Disputes—Dispute between the workers and management of the Themmalapuram Bus Transport, Limited, Palghat —Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 5492, Development, dated 27th November 1947.

(2)

From the Industrial Tribunal, Coimbatore, dated 6th May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

PRESENT :

SRI C. R. KRISHNA RAO.

INDUSTRIAL DISPUTE NO. 8 OF 1947.

[In the matter of the industrial dispute between the workers and management of the Themmalapuram Bus Transport, Limited, Palghat.]

This dispute having come up for final enquiry on the 15th, 16th and 17th March 1948 at Palghat in the presence of Sri A. Appukutti Menon, Sri V. V. Srinivasa Ayyangar and Sri V. V. Ramadurai, advocates for the management, and Sri P. Gopala Menon,

advocate for the workers, and having stood over for consideration till this day, the 28th day of March 1948, the tribunal made the following

AWARD.

1. The dispute between the workers and the management of the Themmalapuram Bus Transport, Limited, Palghat, was referred at me for decision by G.O. Ms. No. 5492, Development, dated the 27th November 1947. I sent out notices to both the parties and they filed writen statements. The points in controversy will appear from the issues set out below.

2. *Issues.*—(1) Is the strike of the workers begun on 21st November 1947 illegal, and if it is so what consequences follow from it?

(2) Is the management not bound to recognize the Palghat Motor Workers' Union for any of the reasons stated by them, and are they entitled to impose any and what conditions as a pre-requisite to recognition?

(3) Was Sukumaran retrenched or was he dismissed? Is he entitled to be reinstated?

(4) Were Kuppuswami Chetti and Balakrishna Menon dismissed after proper enquiry and for sufficient reasons?

(5) Were Raghavan and two other workers properly suspended after due enquiry? If not what relief are they entitled to for the period of suspension?

(6) Are the workers entitled to bonus for 1947 now or should they wait until the accounts are made up for the year and profits are ascertained?

(7) Are the 38 workers mentioned in demand No. 4 of the workers to be made permanent, or should they be kept on a temporary basis? If they are to be made permanent, what is the necessary period of service for being made permanent?

(8) When should the 8-hour day for the workers begin, when they turn up for work, or when they actually commence and close work? How should the 8-hour period be calculated?

(9) Should drivers, conductors and check inspectors be paid a daily batta of Rs. 1–8–0?

(10) Are conductors compelled to do pumping, cleaning, greasing, etc.?

(11) Are any ex parte enquiries held and should not the Union be allowed to help a worker, when there is an enquiry held against him?

(12) Should not the workers be paid interest on the security amounts paid by them?

(13) Were the workers fined in excess of the amounts sanctioned by law, or were the amounts recovered as compensation? What relief if any are the workers entitled to in this respect?

(14) Are workers, i.e., drivers and conductors to be paid double batta when buses are hired to marriage parties?

(15) Are there no suitable halting places for drivers, conductors and inspectors at Palghat, Cherplacherry, Perintalmanna and Vadakkancheri?

(16) Are the temporary workers to be paid interim relief recommended by the Court of Enquiry and particularly Paru and Nachimuthu?

(17) Does the Provident fund subscription to begin from 1st January 1947 if the workers pay their arrears from that date?

(18) Should the drivers, conductors and inspectors to be provided with 4 sets of uniforms? Should factory workers also be supplied with 4 sets of uniforms?

(19) Are the workers entitled to be paid dearness allowance in addition to salary and is Rs. 25 a month a proper rate?

(20) Should the drivers and conductors have permanent lines and the inspectors also as claimed by the workers?

(21) Should the company provide a canteen for the workers?

(22) Should the workshop be provided with fans and is the provision of drinking water at the workshop unsatisfactory?

(23) Have the workers in the workshop a restroom now or should one be provided?

(24) Should the latrine be removed from its present position?

(25) Should the rules about concession passes be modified, if so, how?

(26) Should batta alone be cut and not salary as well for insufficient work?

(27) Should the workers have 15 days' casual leave in the year with pay and sick leave for two months on full wages? Should the workers have in addition one month's privilege leave on full wages? Should they be given also leave on all public holidays?

(28) Are the workers to be given annual increments and if so at what rates?

(29) Is the settlement brought about by the Labour Officer, on 18th September 1946, a bar to the claims of the workers mentioned in issues 3, 9, 18, 25, 27 and 28?

(30) Are the workers entitled to be paid wages for the strike period?

3. Sri Rao Bahadur M. Venkataramayya was appointed Court of Enquiry and then Industrial Tribunal to adjudicate on the disputes in Motor Transport Companies in the Province. His decision will bind the Themmalapuram Bus Transport, Limited (which will

be referred to hereafter as Themmalapuram Bus Transport) as well. I understand the Manager, Sri Pazhanimalai, was examined by the Tribunal at Calicut, though no one appears to have been examined on behalf of the workers. Lest there should be any conflict in our findings, it was agreed by the parties that the general questions which Mr. Venkataramayya is likely to deal with, need not be decided by me. Accordingly issues 6, 8, 9, 14, 17, 18, 19, 20, 21, 27 and 28 will abide the decision of Mr. Venkataramayya and I shall not deal with them—vide joint statement filed by the parties.

4. *Issue* 2.—The question of the recognition of the "Palghat Motor Workers' Union" seems to have loomed large during the conciliation proceedings. There were 23 demands put forward by the union and on 22 demands there was some kind of settlement. But the parties could not agree on the 23rd demand, viz., the recognition of the union and the negotiation fell through, which was indeed a pity. Both sides seem to have entertained exaggerated and altogether unfounded hopes and fears regarding the result of the recognition. There was a Workers' Union called the Themmalapuram Bus Transport, Limited, Motor Workers' Union, which was confined to workers of the Themmalapuram Bus Transport, Limited. It was enlarged so as to enable workers in other motor bus companies to join the union and consequently the name was changed to "Palghat Motor Workers' Union." The Themmalapuram Bus Transport obviously wanted the union to be confined only to their own workers—in other words that it should be a company union. They wish now to impose certain other conditions. There was no law to compel the management to recognize a trade union. But under the amendment to the Indian Trade Unions Act (Central Act XLV of 1947) a union can apply for recognition under section 28-E. I understand from a communication of the Commissioner of Labour that this amendment will come into force only in June 1948. And in any case the machinery which can grant recognition, viz., the Labour Court has not been set up. It is. therefore, quite true to say even now that there is no law under which the Themmalapuram Bus Transport, Limited, can be compelled to recognize the Palghat Motor Workers' Union. I find this issue against the workers.

5. *Issue* 1.—The Themmalapuram Bus Transport considered this issue so important, that they brought eminent counsel (Mr. V. V. Srinivasa Ayyangar) from Madras to argue this issue only. The Union Secretary sent a notice by registered post on 6th November 1947 to the Manager, Themmalapuram Bus Transport, Limited, that a strike would begin at 1 a.m. on 21st November 1947. The notice was received by the Manager at Palghat on 8th November 1947. In the ordinary course, the notice would have been delivered on 7th November 1947, but the Manager could not be found on the day.

Mr. V. V. Srinivasa Ayyangar began by saying that Industrial Tribunals administer the principles compendiously known as "Equity and good conscience" and a suitor in equity should do equity before he seeks equity and that he must come before the court with clean hands and so on. He argued that inasmuch as the notice of strike had reached the management on 8th November 1947 and the strike had commenced on 21st November 1947, the union had begun the strike before the expiry of 14 days and so the strike was illegal. I asked Mr. Srinivasa Ayyangar whether he was contending that if the strike was illegal the workers would loose their claim to all other reliefs. He was not prepared to go so far.

It is now conceded that this is a public utility service and a notice of strike should conform to the provisions of section 22 of the Industrial Disputes Act. That section says that a strike begun "within 14 days of giving notice" would be illegal. Giving of notice is different from the service of notice. Mr. Srinivasa Ayyangar contended that the computation of the 14 days period must be from the date of service. But the section does not say so. No rules had been framed in November 1947 under the Act. Rule 25 (3) says that copies of the notice shall be furnished by registered post to the opposite party. That the union has done. I do not think there is any substance in this argument. If there is delay in the Post office or if the addressee is absent or cannot be found, the union must not suffer when they have done what the law requires them to do. The 14 days' notice is required to give the parties sufficient time to negotiate and if possible to avoid the strike or lockout. Negotiations were going on till within an hour or two of the actual commencement of the strike and agreement had been reached on all but one point. Considering the obstinacy displayed by both parties on this question of recognition a prolongation of the negotiation would not have yielded any better result. I do not say that the notice given was insufficient in law but I am pointing out that even if 24 hours more had been given the result would not have been any different.

6. Mr. Appukutti Menon raised two other points. He said that the conciliation proceedings were concluded only on 20th November 1947 and a strike commenced that night was illegal because the condition provided in section 22 (1) (*d*) of the Act had not been complied with. Mr. Gopala Menon for the workers contended that the conditions were alternative as the use of the word 'or' clearly showed and that only one condition need be satisfied, and the workers had complied with the condition mentioned in section 22 (1) (*b*). Under section 22 (1) of the Act any strike in a public utility service which offends against any one of the four provisions mentioned in it is prohibited. In other words the strike if it is to be legal must satisfy all the four conditions. Otherwise a very curious result will follow. If Mr. Gopala Menon's contention is accepted, when the workers give a notice on 1st April 1948 that they

will strike on 3rd April 1918 and they actually strike on 4th April 1948 it would be legal, because section 22 (1) (c) would have been complied with. And this clearly is not the law. Mr. Appukutti Menon is right. Because the strike was begun on the day the conciliation was closed on 21st November 1947 (not concluded within the meaning of section 20 of the Act) it must be held to be illegal.

The other point raised is that the strike notice was signed only by the Secretary of the Union and not by the representatives of the workers. The Madras Industrial Disputes Rules had not been published and the union cannot be expected to comply with rule 25 before its enactment. There is nothing in this objection. I find the strike was illegal. The consequences that flow from it will be considered in the appropriate places.

7. *Issue* 3.—Sri Sukumaran is the Secretary of the Union. He says he was dismissed in April 1946. But the Thenmalapuram Bus Transport say that he was retrenched as some buses were sold to another company. The worker relies on Exhibit F, in which his name is not mentioned amongst the retrenched. He also contends that he was not the juniormost. Admittedly his brother-in-law was the juniormost and he has been retained. I do not think it was a case of dismissal, but the matter is really not important because in a subsequent proceeding it was agreed that the union should not press for the reinstatement of Sukumaran—vide Exhibit M. The question cannot be raised again. I find that Sri Sukumaran is not entitled to be reinstated. But as he is an intelligent young man, without any blemish on his character, I would recommend to the management that they consider favourably his application for appointment if he should make one afresh.

8. *Issue* 4.—Balakrishna Menon has been examined as P.W. 2. He says that he issued a luggage ticket for Rs. 5–8–0 though there was no luggage but only passengers. The exact number of passengers and their destinations are not known. Balakrishna Menon says he had no passenger tickets, so he issued one luggage ticket for all the passenger fares he collected. He was not really on duty on the bus according to him. In the enquiry held, he and the conductor of the bus and the checking inspector were all dismissed. When the driver and conductor and checking inspector combine it is so easy to defraud the Company. A deterrent sentence is necessary to prevent such frauds. Balakrishna Menon had been punished before. I do not believe his story about the luggage ticket. I think his dismissal was right.

Kuppuswami Chetty was dismissed for altering a luggage ticket. He had shown Rs. 3 and he changed it into 3 annas. He says the bundle for which the charge was made consisted of 10 coconuts and so the charge of Rs. 3 would be excessive and could not have been collected. According to the rules of the company, the amounts collected for luggage have to be added and noted on the back of the

ticket. What the conductor has done is to deduct Rs. 3. But he failed to add 3 annas which he says he actually collected. He has not a clean sheet. He was suspended in 1945 and fined two or three times. I am not satisfied that his dismissal was improper. I find this issue against the workers.

9. *Issue* 5.—Raghavan Nair was suspended, it is said, because he was rude to a policeman. He was asked to take a bicycle of the constable on his bus, which he refused. The Police Inspector is said to have complained to the Manager who thereupon suspended Raghavan Nair. There was no satisfactory enquiry and I think the punishment was awarded to please the Police Inspector. The suspension was improper and the worker must be paid his wages for the period of suspension calculated on the average for the previous month

Chokkalinga Moothan, a driver was suspended for 15 days because he is alleged to have refused to go on a different route and applied for leave on account of his child's birthday. Under the rules he should have applied earlier for the leave. Leave on loss of pay would have been a sufficient punishment. The suspension for 15 days is too severe, when it has not been proved that the excuse given, the child's birthday, is not true. His suspension is set aside and he must have his wages for 14 days calculated on the average for the previous month.

Mahomed Yakub was a fitter at Cherplacherry. His complaint is that he was suspended for 7 days when he asked for overtime wages. But the company says that he refused to do work. He might have done the work and then claimed overtime and not make it a condition precedent to doing work. His refusal to do work was improper and the punishment is not excessive. I uphold the suspension.

10. *Issue* 7.—A large number of workers especially drivers and conductors are engaged on what may be called a day to day basis. They are employed and paid when there is work and not when there is no work. They are expected, according to the union, to be present throughout the day and often times they are not employed. The Company say that the workers have been engaged on specific terms and they cannot all be made permanent merely because they have put in some length of service. They have all given security of Rs. 100 each. A number of drivers and conductors were brought to take the place of those who struck. And some of them have been confirmed even though they have not given security. Sir H. V. Divatia observed in regard to the Bombay Electric Supply and Tramway Company, that " they cannot be compelled to make every temporary employee permanent after three months service. It is well known that the company has to increase or decrease the number of workers from time to time according to exigencies of work." *Labour Gazette*, Volume XXVII, page 498. It cannot be that all the 38 workers require to be retained on a temporary basis,

The newcomers, the strike breakers, have been made permanent. This is indeed a hardship. But can this Tribunal now afford them any relief? Even if it was a question of reinstatment, the 38 workers if they had lost their jobs on account of the strike could not ask to be reinstated for the Company was not guilty of any unfair labour practice. " An employer against whom a strike has been called, not as a consequence of his unfair labour practice but solely for the purpose of enforcing a demand by a show of strength, has the right to employ others to take the place of the strikers, and to promise such newly employed persons continued employment even after cessation or termination of the strike, and hence he is under no duty to reinstate the strikers upon termination of the strike, to take the places of those hired during the strike to take the place of the strikers." *Bombay Labour Gazette*, Volume XXVII, page 209. The refusal to recognize the Union is not an unfair labour practice. The Manager and his Assistant are said to have dissuaded workers from joining or continuing in the Union, but this was not the cause for the strike and I have held on other grounds that the strike was illegal. I cannot direct the Company to put the 38 workers on a permanent footing at once. But they will be serving their own interest if they confirm as many of these temporary workers as they can and remove a cause for discontent. The discrimination between the strike breakers and the strikers should disappear as quickly as possible if the work is to proceed smoothly and well. I hope the Company realizes this. Probably Mr. Venkataramayya's Award may dispose of this question too. There should certainly be no discrimination in the employment of temporary workers. All should be employed in strict rotation

As regards the female coolies in the charcoal department, there is no difficulty. All of them have put in years of service and they must be made permanent with effect from 1st December 1947.

11. *Tenth issue.*—Conductors need not do pumping, cleaning, etc., at regular sub-stations and Branch offices but they must attend to this work, if there is a breakdown *en route*.

12. *Eleventh issue.*—As a Works Committee is to be constituted in this establishment, there is no need for the Union to help a worker when there is an enquiry held against him.

13. *Twelfth issue.*—The security is taken on the understanding that no interest will be paid. I direct that the security amounts be deposited in the Post Office Savings Banks and the interest paid by the Post Office should be credited to the worker. The Manager must give a receipt to the worker for the amount deposited.

14. *Thirteenth issue.*—Admittedly the fines imposed were in excess of what the law allows. The Management say they deducted the amounts not as fines, but as compensation for loss sustained. One conductor did not issue 24 tickets and he was fined Rs. 80,

Another worker misused 7 tickets and he was fined Rs. 25. Another was fined Rs. 40 for not issuing 5 tickets and rubbing out and altering other tickets. These are arbitrary fines and not recoupment of loses sustained by the Company. It is not stated that the actual loss sustained in each case is represented by the fine. The Company may have given other punishment, but if the workers had to be fined, it must be as provided by the Payment of Wages Act. All the amounts collected in excess of what the Act allows should be refunded to the workers concerned.

15. *Fifteenth issue.*—I inspected two stations, Vadakancheri and Mankappara. There is plenty of room in Vadakancheri and one room has now been set apart for the use of drivers and conductors. In Mankappara there is no room but only a garage. Only one bus stops here for the night and that too in the dry months. The Management must provide a room here for the driver and conductor and also in other halting stations.

16. *Sixteenth issue.*—As regards Paru and Nachimuthu, the Company agreed to grant interim relief. As regards the other temporary workers it is for the Tribunal that granted the interim relief to decide whether they should get it or not.

17. *Twenty-second issue.*—I inspected the workshop. In my opinion fans will be no good but ventilators should be opened and more light and air made accessible as pointed out by me to the parties. The Management must get this work done within three months. Good drinking water must be kept in mud pots in easily accessible places and tumblers also must be provided.

18. *Twenty-third issue.*—There is a rest shelter, but it requires to be extended as I suggested at the time of inspection. The Company will extend it within three months.

19. *Twenty-fourth issue.*—The latrine is used by the passengers, but it is sufficiently removed from the workshop and it is not a nuisance. It must be kept properly cleaned.

20. *Twenty-fifth issue.*—By the settlement Exhibit M it was agreed that the worker should have free passes when going on leave and at half rates on other occasions. The Company says that the tickets are wanted on the date before going on leave and the date after when returning from leave. If this is found to interfere with the passenger traffic, the concession may be limited to twenty workers in order of priority and urgency. In other respects the settlement will be adhered to.

21. *Twenty-sixth issue.*—This relates to the cut of salary and batta for insufficient checking work done by Inspectors. The old practice was to cut the salary only. But now both are cut and the workers contend that the old practice must be restored. I agree that a cut of one day's salary would be a sufficient penalty and that

batta should not be cut. If the salary is fixed on a monthly basis, then the cut will be a day's proportionate salary. Dearness allowance will be regarded for this purpose as part of the salary and may be cut.

22. *Twenty-ninth issue.*—Yes as regards issue 3. But as regards issue 25, changed conditions may require modification and I have made the necessary modification.

23. *Thirtieth issue.*—No.

24. In the result I make an Award as follows :—

(1) The strike begun by the workers on 21st November 1947 is declared illegal.

(2) The T.B.T., Ltd., is not bound to recognize the Palghat Motor Workers Union at present.

(3) Sri Sukumaran is not entitled to be reinstated. But if he applies for appointment afresh, the company would do well to consider his application favourably and give him a clerk's post.

(4) Kuppuswami Chetti and Balakrishna Menon were properly dismissed and are not entitled to be reinstated.

(5) The suspension of Raghavan and Chokkalinga Moothan was improper. They must be paid their earnings, calculated on their average earnings for the previous month for 25 days and 14 days respectively. The suspension of Mahomed Yakub is upheld.

(6) The Company must put on a permanent footing as from 1st December 1947, the female workers in the charcoal department who have put in four years of service and more.

As regards temporary drivers, conductors, etc., the Company cannot be compelled to make them permanent at once. But they will do well to absorb as many of them as they can in the permanent service and remove a cause of discontent. Work should be allotted to them in strict rotation.

(7) The conductors need not do pumping and cleaning except between halting stations.

(8) The Company should issue receipts for the amounts deposited as security and these amounts should be kept in the Post Office Savings Bank and the interest paid by the Post Office should be credited to the workers.

(9) The fines levied from the workers in excess of what is permitted by the Payment of Wages Act should be refunded within a fortnight after the publication of the Award. The workers concerned are conductors Krishnan Nair, Madhavan Nair, Sivasankaran, Sandara Mannadiar, Kannan Kutti, Ezhuthassan and Balakrishnan, drivers Raghavan and Kareem and Stand Manager Swamy.

(10) Paru and Nachimuthu must be paid interim relief granted by the Court of Enquiry. As regards the others, relief must be sought from the appropriate Tribunal.

(11) Drinking-water in clean mud pots must be provided. No fans are necessary in the workshop but ventilators must be provided.

(12) The rest shelter in the workshop must be extended and a board put up that it is reserved for the use of the workers.

(13) The agreement reached and recorded in Exhibit M regarding concession passes will hold good unless modified by Rao Bahadur M. Venkataramayya. The issue of passes available on Saturdays and Mondays may be restricted to twenty.

(14) Salary may be cut for insufficient work.

(15) Workers are not entitled to wages for the strike period.

(16) The issues which I have not considered, viz., 6, 8, 9, 14, 17 to 21, 27 and 28 will abide the decision of Rao Bahadur M. Venkatramayya, the tribunal appointed to adjudicate on the disputes between the workers and the managements of Motor Transport Companies in the Province.

Order—No. 2724, *Development, dated* 27*th May* 1948.

Whereas the Award of the Industrial Tribunal, Coimbatore, in respect of the industrial dispute between the workers and the management of the Themmalapuram Bus Transport, Limited, Palghat, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) His Excellency the Governor of Madras hereby declares the said Award shall be binding on the Management of the Themmalapuram Bus Transport, Limited, Palghat, and the workers employed therein and directs that the said award shall come into operation on the 27th May 1948, and shall remain in operation for a period of one year.

(By order of His Excellency the Governor)

C. P. MADHAVA MENON,
Assistant Secretary to Government.

XXXII

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE SOUTH INDIAN LEATHER COMPANY, LIMITED, MADRAS

and

THE WORKERS.

Represented by M. Nithiyananthan and V. A. Nagamuthu.

INTERIM AWARD.

Subject.—Whether the termination of service of Nagamuthu was proper and whether he should be reinstated.—Held that the worker continued in service after the misconduct alleged by the management, that his services were terminated for want of work and as worker was offered one month's salary in lieu of notice, the worker could have no grievance.

Held the claim for reinstatement is unsustainable.

Award in terms of the joint statement on other matters.

G.O. Ms. No. 2831, Development, dated 29th May 1948.

[Labour—Disputes—Dispute between the workers and management of the South Indian Leather Company, Limited, Madras—Interim recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers:—

(1)

G.O. Ms. No. 6028. Development, dated 23rd December 1947.

(2)

From the Industrial Tribunal of Madura, dated 19th March 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT:

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

INDUSTRAL DISPUTE NO. 1 OF 1948.

Between

The South Indian Leather Company, Limited.

and

The labourers of the SILCO, represented by M. Nithiyananthan and V. A. Nagamuthu.

AWARD.

1. An application was presented by the abovesaid company (SILCO) on the 13th February 1948 while I was camping at Madras and holding an enquiry regarding the disputes between the tannery workers and tanners in the Province.

2. It is stated in the application that there are some disputes already existing and that other disputes between the company and their workers are likely to arise. It mentions seriatum the various demands made by the workers; and it is contended that the demands are exorbitant and unworkable."

3. The application then refers to the conduct of the labourers and the difficulties experienced by the company and indicates to what extent they are prepared to meet the demands of the workers. It also sets out the obligations which should be imposed upon the workers. It is added that, if the outstanding disputes are not settled, the company would have to close the business.

4. A reply was filed on behalf of the workers.

5. The petition was posted for hearing at Madras on 2nd March 1948. On that day, after a good deal of discussion, the parties agreed to a tentative arrangement pending the final award with regard to the entire Province. The terms agreed upon were reduced to writing and a joint statement was filed before me on that day.

6. Under clause 8 of the joint statement, the matter of the reinstatement of the three workers Nagamuthu, Appadurai and Nithiyananthan is left for the decision by the Tribunal. The company agreed to take all the other workers except Srinivasan.

7. Srinivasan did no appear during the proceedings before me. His case need not, therefore, be considered. Appadurai and Nithiyanandan gave an undertaking to behave better and the company agreed to take them back for service.

8. The only question to be decided, therefore, is with regard to the worker Nagamuthu. He is one of the secretaries of the South Indian Leather Company Workers' Union.

9. *The issue is*:—Whether the services of Nagamuthu were terminated on proper and sufficient grounds and if not, whether he should be reinstated.

10. Nagamuthu examined himself as a witness in support of his case. On the side of the employer, two witnesses were examined (the manager and the assistant manager). The witnesses, examined on behalf of the company, stated that Nagamuthu was responsible for two lightning strikes in January and was given warnings. According to them, one day he and Srinivasan removed gourd (*suraikkai*) from the plant raised in the company's premises. without the knowledge and consent of the manager or his assistant, that. when the manager questioned Srinivasan, Nagamuthu intervened and threw the gourd in front of the manager in a disrespectful and contemptuous manner and exclaimed that he might take action against him also and send for the police and that he was not afraid of the consequences. The incident is practically admitted by Nagamuthu. The manager stated that Nagamuthu, who had behaved in such a defiant and insulting manner, should not be

directed to be reinstated. But it was admitted by the assistant manager that Nagamuthu continued in service for one month after this incident and after a warning had been given. Nagamuthu also did not deny that he continued in service during that period. His version is that the assistant manager told him, when he appeared before him one morning and asked for work to be allotted to him, that there was no work which could be given to him and that his services were not required and the company would be prepared to give a month's salary for terminating his services. But he did not accept the offer of 30 days' salary in lieu of notice of termination of service. It is, thus, clear that Nagamuthu was not dismissed from service for the misconduct with regard to the gourd incident and that his services were only terminated for want of work. If he had been dismissed, I should certainly go into the question whether the order of dimissal was proper and valid. There is, therefore, no point in urging that no charges were framed, no explanation called for and no enquiry held.

11. As it is admitted that Nagamuthu was offered a month's salary when his services were abruptly terminated, i.e., without due notice, he could have no legal grievance. His claim for reinstatement is unsustainable. The issue is found accordingly.

12. The company is not bound to re-employ Nagamuthu. If he makes a written offer to the company to receive a month's salary, the company shall remit the amount to him by money order after deducting money order commission.

13. There will be an interim award in terms of the joint statement with the omission of clause No. 8, i.e., to say as set out below :—

(i) If the factory should be kept open for more than 8 hours, overtime allowance at two times the usual basic wage shall be paid.

(ii) Annammal and Kamala shall be taken as daily rated. Thayammal and Pasamal shall be taken on monthly basis.

(iii) Instead of rubber gloves, rubber shins and aprons suitable chrome leather material shall be provided to the workers for whom they are essential.

(iv) The workers' union shall be recognized.

(v) If the management should send away workers on the ground of no work, then, the workers shall be paid a starvation allowance of 12 annas (in lieu of dearness allowance and wages) per day.

(vi) The recommendations in Dr. B. V. Narayanaswamy Nayudu's report as adopted by the Government, shall be given effect to forthwith regarding wages and dearness allowance.

(vii) If there is no work for a month, the labourers should be given fifteen days notice or wages in lieu of notice and their services terminated.

(viii) If there is any difficulty in working out these interim arrangements, either party shall be at liberty to move the tribunal by a petition for decision on the point of dispute.

14. Nagamuthu is not entitled to reinstatement.

15. This interim award shall take effect from 2nd March 1948, i.e., from the day on which the joint statement was filed before me and recorded. This award shall be in force till the final award is accepted by the Government and published in the official gazette.

Order—No. 2861, Development, dated 29th May 1948.

In G.O. Ms. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be referred for adjudication to an industrial tribunal consisting of Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge. Now the Industrial Tribunal has reported that when the dispute between the workers and management of the South Indian Leather Company, Limited, Madras, was taken up for hearing, the parties thereto filed a joint statement agreeing to a tentative arrangement pending the final award in respect of the entire Province and therefore it has passed an interim award in terms of the said joint statement. The Government accept the award and make the following order :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge) constituted under G.O. Ms. No. 6028, Development, dated 23rd December 1947, to adjudicate in the industrial disputes existing between the workers and managements of tanneries in the Province in respect of the South Indian Leather Company, Limited, Madras, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947, His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the South Indian Leather Company, Limited, Madras, and the workers employed therein and directs that the said award shall come into operation on the 29th May 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the tanneries in the Province is accepted by the Government whichever is earlier.

2. The Commissioner of Labour is requested to send copies of this order to the management and workers concerned.

(By order of His Excellency the Governor)

W. R. S. SATHIANATHAN,
Secretary to Government.

XXXIII

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, MADRAS.

SRI T. D. RAMAYYA PANTULU, M.A., B.L.,

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE NATARAJA ENGINEERING WORKS, MADRAS

and

THE WORKERS.

MR. G. RAMAKRISHNA AYYAR, advocate and MR. J. SUBRAMANIAM—*for the management.*

Mr. R. VENKATARAMAN, Advocate and Mr. K. PRABHU, President of the Union—*for the workers.*

Interim award in terms of agreement between the parties.

G.O. Ms. No. 2322, Development, dated 1st June 1948.

[Labour—Disputes—Dispute between the workers and management of the Nataraja Engineering Works, Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1115, Development, dated 5th March 1948.

(2)

From the Industrial Tribunal for Engineering Firms and Type Foundries, Madras, dated 8th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, GOVERNMENT OF MADRAS.

SRI T. D. RAMAYYA PANTULU, M.A., B.L.,
Retired District and Sessions Judge.

[In the matter of dispute between the management of the Nataraja Engineering Works and the workers of the Nataraja Engineering works.]

Mr. G. Ramakrishna Ayyar (advocate) and Mr. Subramanyam—for the management.

Mr. R. Venkataraman (advocate) and Mr. K. Prabhu, President, The Nataraja Engineering Workers' Union—for the workers.

AWARD.

Out of the nineteen persons mentioned in the letter of the management, dated 5th March 1948, to the Tribunal all are present except Muthial Nayudu, Doraiswamy Pillai, Gengu Naicker and Ethirajalu Naicker. The workers express regret for what has happened and promise to behave properly in the future. Mr. Prabhu as President of the Union of the Nataraja Engineering Workers also expresses regret *on behalf of the four absent men.* In view of this expression of regret, the lessee (management represented by J. Subrhamanyam) agrees to their coming and working in the factory from to-morrow the 9th April 1948 as usual. The men also agree to go and work from to-morrow (i.e), 9th April 1948 as usual.

Order—No. 1922, *Development, dated* 1*st June* 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Engineering Firms and Type Foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of the Nataraja Enginering Works, Madras.

The Government accept the award and make the following order:—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of Enginereing Firms and type Foundries in the Province in respect of the Nataraja Engineering Works, Madras, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Nataraja Engineering Works, Madras, and the workers employed therein and directs that the said award shall come into operation on the 1st June 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the Engineering Firms and Type Foundries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXXIV

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, MADRAS.

SRI T. D. RAMAYYA PANTULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE NATARAJA ENGINEERING WORKS, MADRAS

and

THE WORKERS.

MR. G. RAMAKRISHNA AYYAR, advocate and MR. J. SUBRAMANIAM—*for the management.*

Mr. R. VENKATARAMAN, Advocate and Mr. K. PRABHU, President of the Union—*for the workers.*

INTERIM AWARD.

Subject.—1. *Whether the strike, dated 1st March 1948 and the subsequent lock-out legal.*—*Held* that the strike during the pendency of the investigation by the Court of enquiry is illegal.

Held that the subsequent lock-out by the management is legal.

2. *Whether workers are entitled to wages for the period of the strike and the lock-out.*—*Held* that as the strike was illegal and the lock-out justified, workers are not entitled to wages.

G.O Ms No 2923, Development, dated 1st June 1948.

[Labour—Disputes—Dispute between the workers and management of the Nataraja Engineering Works, Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1115, Development, dated 5th March 1948.

(2)

From the Industrial Tribunal for Engineering Firms and Type Foundries, Madras, dated 28th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, GOVERNMENT OF MADRAS.

SRI T. D. RAMAYYA PANTULU, M.A., B.L.,

Retired District and Sessions Judge.

[In the matter of dispute between the management of the Nataraja Engineering Works and the workers of the Nataraja Engineering Works.]

Mr. G. Ramakrishna Ayyar (advocate) and Mr. J. Subrahmanyam—for the management.

Mr. R. Venkataraman, (advocate) and Mr. K. Prabhu, President, The Nataraja Enginering Workers' Union—for the workers.

AWARD.

The points to be considered are whether the strike of the workmen, dated the 1st March 1948 and the subsequent declaration of lockout by the management are legal.

2. There was a Court of Enquiry investigating the disputes on the 1st of March 1948 when the strike was called. The notice issued by the workmen disclosed that the demands were covered by the subject-matter of the court. It is however contended for the workmen that the manager abused in vulgar language and that it was one of the reasons for the strike. If that is so, it is surprising that no mention should have been made in the notice about the abuse. The contention cannot be accepted. The strike was therefore not legal.

3. As regards the lockout declared by the management, it was done in consequence of the illegal strike within the meaning of section 24, clause 3 of the Industrial Disputes Act and cannot be deemed to be illegal. Moreover the workers rendered the lockout wholly ineffective, by their admittedly unauthorized occupation of the factory premises for a number of days. I hold, the lockout was legal. The workers did not do work from the 1st of March to the 15th of March 1948 (both days inclusive) and will not be entitled to wages for that period in any event.

4. As regards the period from the 16th of March 1948, the workers did not work until the 9th of April 1948 when after the apology tendered before the Tribunal, they returned to work. In view of the illegality of the strike and the forcible occupation of the factory premises for nearly 15 days, the management was justified in continuing the lockout. In these circumstances, the workers cannot ask for wages for the period they did not work.

5. I find that the strike was illegal, that the lockout was legal and that the workers are not entitled to wages or dearness allowance for the period from the 1st of March to the 8th of April 1948 both days inclusive.

Order—No. 2923, *Development, dated* 1st *June* 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Enginering Firms and Type Foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has sumitted an interim award in respect of the dispute between the workers and

management of the Nataraja Engineering Works, Madras. The Government accept the award and make the following order:—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of Engineering Firms and Type Foundries in the Province in respect of the Nataraja Engineering Works, Madras, has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Nataraja Engineering Works, Madras, and the workers employed therein and directs that the said award shall come into operation on the 1st June 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the engineering firms and type foundries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXXV

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, MADRAS.

SRI T. D. RAMAYYA PANTULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF MESSRS. KUTTY AND RAO, ENGINEERS, MADRAS

and

THE WORKERS.

MR. G. S. RAO—*for the management.*

MESSRS. ROW and REDDY—*Advocates for the Workers.*

Subject.*—1. *Whether the lock-out by the management on the 8th April 1948 justified.*—*Held that the previous strike was

terminated by the agreement before the Labour Commissioner and the refusal of the management to allow the workers to resume the work on the 9th was wrong.

Held that the lock-out cannot be deemed to be consequential on the strike.

2. *Wages for the period of lock-out.*—*Held* that as the lock-out was not justified, usual wages and dearness allowance should be paid for the days specified.

G O. Ms. No. 2924, Development, dated 1st June 1948.

[Labour—Disputes—Dispute between the workers and management of Messrs. Kutty and Rao, Engineers, Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1115, Development, dated 5th March 1948.

(2)

From the Industrial Tribunal for Engineering Firms and Type Foundries, Madras, dated 30th April 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES, GOVERNMENT OF MADRAS.

SRI T. D. RAMAYYA PANTULU, M.A., B.L.,
Retired District and Sessions Judge.

[In the matter of the dispute between the management of Messrs. Kutty and Rao (Engineers), Limited, Madras, and the workers of Kutty and Rao (Engineers), Limited, Madras.]

MR. G. S. RAO—*for the management.*

MESSRS. ROW and REDDY (Advocates)—*for the workers.*

AWARD.

One point of disputes is whether the workers agreed with the management to resume work on the 8th April 1948. The workers say that there was no such understanding and that they had to join only after 24 hours' notice was given to the workers. From the letter addressed by the management to the Labour Commissioner on the 7th April 1948, it is clear that the resumption was agreed to be on the 8th. I am unable to accept the workers' contention on the point.

2. The next matter for consideration is whether the workers are entitled to wages for 9th, 12th, 13th and 14th of April 1948. The management contends that the anterior strike was illegal and that it must be deemed to be continuing, in spite of the agreement

before the Labour Commissioner, since the workers did not implement the agreement. In my view the contention is untenable especially because of the lock out declared by the management on the 8th itself, i.e., the very day fixed for resumption of work. Whatever may have been the attitude of the workers on the 8th, the management should have let them work on the 9th and were wrong in declaring a lock out. The compromise arrived at terminated the anterior strike and the lock out cannot be deemed to be consequential on the strike within the meaning of section 24, clause 3 of the Industrial Disputes Act.

I hold that the lock out was not legal and that the workmen are entitled to the usual wages and dearness allowance for the 9th, 12th, 13th and 14th of April 1948.

Order—No. 2924, Development, dated 1st June 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Engineering firms and type foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of Messrs. Kutty and Rao, Engineers, Madras. The Government accept the award and make the following order :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development, dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of Engineering firms and type foundries in the Province in respect of Messrs. Kutty and Rao, Engineers, Madras, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of Messrs. Kutty and Rao, Engineers, Madras, and the workers employed therein and directs that the said award shall come into operation on the 1st June 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the Engineering firms and type foundries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXXVI

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENTS OF HOTELS IN MADURA

and

THE WORKERS.

Subject.—1. *Wages for the period of the strike.*—*Held* that strike on 26th November 1947 was legal but its continuance on the 27th after the order of the Government prohibiting the strike and lock-out was illegal.

Held that the Union was not justified in launching a strike on 26th November 1947 against the advice of the Labour Commissioner.

Claim negatived.

2. *Whether there was a lock-out in Nandikeswara Vilas Hotel.*—*Held* that when the proprietor had tolerated the late coming of his workers on previous occasions, it was wrong to have locked out the workers on the night they attended Union meeting. *Held* there was a lock-out.

Held further that the 13 workers should be paid 14 days' wages.

3. *Whether there was a lock-out in Manikka Valli Bhavan.*—*Held* that the workers were guilty of misconduct and that there was no illegal lock-out.

4. *Wages, dearness allowance and bonus.*—*Held* that claim of the workers was extravagant. Taking into account the value of food supplied to the workers, scales of wages for different classes of hotels fixed

Dearness allowance at Rs. 12-8-0 for those getting Rs. 50 and less and Rs. 10 for those getting more than Rs. 50 awarded.

Three months' bonus in three instalments awarded to all workers.

Held further that where workers were getting more than the minimum fixed, they should get an increment of Rs. 2 per mensem over their existing salary with effect from 1st July 1948. All others should get an increment of Rs. 8 per mensem with effect from 1st July 1948.

5. *Wage structure and grades.*—*Held* that it was not possible to fix rates of pay for several categories of workers in the absence of data and that the managements were best fitted to judge the skill of the workers and fix their wages according to skill.

G.O. Ms. No. 2940, Development, dated 1st June 1948.

[Labour—Disputes—Dispute between the workers and managements of hotels in Madura—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. No. 5494, Development, dated 27th November 1947.

G.O. No. 5495, Development, dated 27th November 1947.

(2)

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal of Madura.

INDUSTRIAL DISPUTE NO. 7 OF 1947.

Between

The Hotel Workers of Madura,

and

The Managements of Hotels.

[*Reference.*—G.O. Ms. No. 5494, Development, dated 27th November 1947.]

AWARD.

Disputes arose between the workers in the hotels at Madura and the managements thereof in October 1947. On 24th October 1947, the Secretary, Madura Hotel Thozhilalar Sangam (hereinafter called the Union) issued a notice of strike intimating that the workers would go on strike after 14 days if, before the expiry of that period, their demands for bonus of four months' wages, the dearness allowance as recommended by the award of the Industrial Tribunal for the Textile Industry, increase in basic pay and provident fund benefits are not satisfied.

2. The proprietors of the hotels in Madura have started an association called Sitrundi Bhojana Salaikarargal Sangam (hereinafter called the Association).

3. The Labour Officer, Madura, constituted a Conciliation Committee with two representatives of the Union and two representatives of the Association and himself as President and tried to bring about a settlement on the basis of the recommendations of the Assistant Labour Commissioner. He recommended as regards dearness allowance a flat rate of Rs. 12-8-0 to all the workers drawing Rs. 50 and below, a sum of Rs. 10 to those getting above

Rs. 50 and as regards annual bonus two months' salary in addition to the Deepavali bonus already paid by the proprietors to the workers.

4. The workers were prepared to accept the recommendations of the Assistant Commissioner of Labour; but the managements of the hotels declined to accept the recommendations. The hotel workers thereupon went on strike on 26th November and it was continued on 27th November also.

5. On the report of the Commissioner of Labour and the suggestion of the District Magistrate of Madura that the disputes between the Union and the Association might be referred for adjudication by the Tribunal, the Government passed orders on the 27th November 1947, " directing adjudication and prohibiting the continuance of the lock-out and strike which were in existence in connexion with the disputes."

6. On 19th December 1947, the workers' union filed before me a statement of their claims and demands. The statement runs over several pages with a number of appendices (' A ' to ' F '). In Appendix ' C ' there is classification of the hotels into three grades A, B and C based on the daily turnover of business. Class A is said to represent hotels with more than Rs. 200 sales a day, class B between Rs. 100 and Rs. 200 and class C less than Rs. 100. It is stated that Rs. 30 may be fixed as the basic minimum wage for unskilled workers in C class hotels. Appendix ' G ' to the rejoinder filed by the workers' union contains the wage structure proposed by the Union. They now press for four months' salary as bonus.

7. As regards the strike, it is stated by the Union that the workers waited sufficiently long hoping to come to an amicable settlement with the Association with the help of the officers of the Labour Department, that, only after they found an uncompromising attitude on the part of the Association, as a last resort, went on strike on the 26th November 1947 and continued the strike on the 27th November and that, after the notification was issued by the Government prohibiting the strike, they called off the strike on the 28th November.

8. Appendix ' A ' to the Union's statement, is a copy of the strike notice. The names of 15 workers said to have been unjustly dismissed are mentioned; and their reinstatement is prayed for.

9. The Union filed their reply statement or rejoinder on the 16th January 1948. Appendix ' M ' contains the names of 13 workers of Nandhikeswara Vilas Hotel, 30 workers of Manikka Valli Bhavan Hotel, 1 worker of Udipi Restaurant and 10 workers of other hotels said to have been thrown out of employ as a result of lock-out and unjust victimization. It is prayed that these 54 workers also should be reinstated with pay for the intervening

period. Even in the first statement of the workers it was alleged that there was an unlawful lockout in Nandhikeswara Vilas Hotel and Mainkka Valli Bhavan Hotel.

10. The Hotel Proprietors' Association has filed a detailed counter-statement, running over 27 pages. As regards wages, the case of the Association is that the hotel workers are "*only casual workers*" and "*and are entertained in service on definite terms*" and that therefore to fix a standard of wages for the various categories of workers would be uncalled for, that the wages proposed by the Union are exorbitant and beyond the capacity of the industry to bear and that the workers want to ignore or shut their eyes to the "*singular advantages enjoyed by them such as free boarding and lodging, which are not provided for by the employers of any other industry.*" For the same reason, it is stated that the workers should not be allowed any bonus besides the Deepavali bonus already allowed.

11. It is further maintained that the strike resorted to by the workers was unjustifiable and those who struck work cannot claim any salary for the two days of strike (26th and 27th November 1947).

12. The proprietors of Nandhikeswara Vilas Hotel and Manikka Valli Bhavan Hotel state that they did not illegally lock-out the respective hotels, that the workers were guilty of misconduct and that the action taken by the managements in the circumstances were just and proper and cannot be questioned and that the workers cannot claim re-instatement or any salary. As regards the other workers dismissed or sent away, the Association justifies the action taken.

13. The following are the issues settled :—

(1) What is the basic pay that can be fixed for an unskilled worker?

(1-*a*) Whether any scale of pay can be fixed with regard to workers working continuously.

(2) Whether dearness allowance should be paid, and if so, at what rate.

(3) Whether any bonus should be paid, and if so, at what rate.

(4) Whether the dismissal of the 15 persons mentioned in Appendix 'A' to the workers' statement and those mentioned in Appendix 'M' to their rejoinder is unjust and improper.

(5) Whether the strike by the workers on 26th and 27th November 1947 was legal and justified.

(5-*a*) Whether the strikers are entitled to pay on 26th and 27th November 1947.

(6) Whether there was any illegal lock-out by the proprietors of Nandhikeswara Vilas and Manikka Valli Bhavan Hotels.

14. *Issue* 5.—This relates to the question of the strike on 26th and 27th November. On the side of the union, it is stated that after waiting for 32 days from the date of the issue of the strike notice they were forced to go on strike on account of the unreasonable and uncompromising attitude of the Association. It is no doubt true that as the hotel service has not been declared by the Government to be a public utility service, the workers were not bound to give notice of strike under section 22 of the Act; but they acted very discreetly in having given the notice and also in having waited for more than 32 days. It was only on 19th November, the Labour Officer at Madura constituted a conciliation committee. The Assistant Commissioner of Labour had also visited Madura before that date in order to compose the differences between the parties. On 23rd November, the Labour Officer at Madura began to despair about the prospect of an amicable settlement; and he reported to the Commissioner of Labour about the situation and suggested that the Government might be addressed with a view to refer the dispute for adjudication by the Tribunal. The Commissioner of Labour, almost immediately, made the necessary recommendation to the Government. On the 25th November, he sent a telegram to the Secretary of the Workers' Union advising them not to strike as he was recommending to the Government reference to the Tribunal. On the next day after the receipt of the telegram, the strike in question was launched. The workers would not have lost anything by waiting for two or three days more to see how the Government reacted and viewed the situation. The Labour authorities and the Government could not have acted more expeditiously in the matter. The workers' union would not allow breathing time for the Government to issue the order directing a reference. The workers were most ill-advised in throwing to the winds the advice of the Commissioner of Labour and precipitating a strike with lightning speed. I have no hesitation in finding that the strike was not at all justified. Striking work is no doubt a weapon available to the workers and sanctioned under the law; but it cannot be gainsaid that it can be resorted to only after all constitutional means to obtain redress have been exhausted. The prudence evinced by the advisers of the workers in the beginning deserted them in the course of the conciliation proceedings. It is unfortunate that the day selected for the strike was on the eve of the *Tirukarthigai* day (27th November) when a very large number of Hindu pilgrims would visit Madura.

15. Section 12 (6) of the Industrial Disputes Act allows 14 days' time to a Conciliation Officer (here the Labour Officer at Madura and the President of the Conciliation Committee) for submission of a report by him to the Government. He has also to submit the report through the proper channel, that is to say, through the Commissioner of Labour. It has to be noted that the Conciliation Committee was constituted only on 19th November. Within eight days of the constitution of the Conciliation Committee

and on the next day, after the receipt by the Union of the telegram from the Commissioner of Labour intimating the recommendation to the Government and advising not to strike, the strike was launched in this case. I have no hesitation in finding that in the circumstances pointed out above the strike on the 26th November was unjustifiable. I shall show later on that the demands are exorbitant. The workers, however, have not violated the provisions of the statute with regard to the strike on the 26th November and it cannot be held to be illegal. The Government Order declaring the prohibition of the continuance of the strike was passed on 27th November. So the strike on 27th November is illegal.

16. *Issue* 5 (*a*).—I have held that the strike on 26th November is unjustifiable and the strike on 27th illegal. As a result of these findings, I hold that the strikers are not entitled to their pay for 26th and 27th November 1947.

17. *Issue* 6.—The workers complain that there was a lock-out by the proprietor of Nandhikeswara Vilas Hotel on the 16th and 17th November. The proprietor maintains that there was no lock-out and that there was only a temporary closure of the business for valid reasons. It is stated that the closing was necessitated by the misconduct on the part of the workers on the night of the 16th November. Witnesses Nos. 14 and 15 called on the side of the union depose that there was a lock-out. On the night of the 16th November, there was a meeting of the Hotel Workers' Union. Both the witnesses returned late at night after attending the meeting and were not admitted inside by the proprietor as he had kept the gate locked from inside. That they were not admitted into the hotel that night is not denied by the management. The proprietor was examined as a witness on his side. He is witness No. 9. He stated that he noticed a tendency on the part of the workers to return one by one late at night and that he found it inconvenient to open the gate at nights for their convenience, that the workers had been keeping their articles of clothing in the store room (which usually contained groceries of the value of Rs. 2,000 or Rs. 3,000), that he had been taking objection to their entering the store room, that on the night of the 16th November when they were refused admission they created a disturbance, that they wrote on the furniture in the hotel obscene words, that he considered it advisable to discharge those troublesome and unruly workers and therefore did not allow them to work. Witness No. 10 on the employers' side was keeping a betel-leaf bunk in front of the hotel. He spoke to the disturbance caused by the workers at dead of night on the 16th November when they claimed entrance into the hotel and when it was refused. He also spoke to the fact that the workers used to enter the store room to put in and take out their articles of clothing. When it is admitted by the proprietor and his witness that the workers had been coming late at nights after attending cinema shows and were allowed admission on prior occasions, it is difficult to believe the proprietor's case that he

shut the door against them that night for the reason that they came late and sought entrance. When he had tolerated late comings on previous occasions, I do not see why he should have acted in the extraordinary manner on the night of the 16th November. It is clear that the proprietor did not like that any of his workers should take part in the activities of the workers' union and that he therefore wanted to get rid of such of the workers as were taking interest in the Union. My finding is that there was a lock-out of 13 workers of Nandhikeswara Vilas Hotel (vide Appendix M in Union's rejoinder on the night of the 16th and on the 17th November 1947).

18. As regards the alleged lock-out in respect of Manikka Valli Bhavan Hotel on the night of the 16th November 1947, on the workers' side witnesses Nos. 9 and 10 were examined. Both of them admitted that they two and another woker on the night of the 16th November 1947 wrote on the serving tables with chalkpiece that there was no supply of refreshments. It was also admitted that, though there was enough stock of refreshments available for supply to the customers who came to the hotel after attending the cinema shows, they refused to serve them refreshments. This conduct on the part of the workers, who acted in concert on that night, amounts to gross misconduct and such misconduct cannot be tolerated by the manager of the hotel, whose proprietor was a minor. They deserve to be sent out. An accountant of the hotel was examined as eighth witness on the side of the employers. He stated that he brought to the notice of the police, the misconduct of the workers in writing on the serving tables that there would be no supply though there was a good stock available. Nineteen of the workers turned up after the incident and received their dues from the manager after passing vouchers. The witness stated, on behalf of the management, that, if the other workers turned up and demanded their arrears, they would also be paid but that they had not yet turned up. There can, therefore, be no grievance at all for these workers who are said to have been illegally locked out. I find that there wa no illegal lock-out with regard to Manicka Valli Bhavan.

19. *Issue* 4.—This relates to the alleged dismissal of the workers mentioned in Appendix A and Appendix M in the statements filed on behalf of the workers. In Appendix A, the names of 15 persons are mentioned and there was a prayer that they should be reinstated. Eight of them were examined on the side of the union as witnesses. On the 30th January 1948, the union filed a petition that it gave up the prayer for the reinstatement of the 15 workers; but they wanted an alternative prayer to be introduced in their pleading to the effect that 14 days' salary might be paid to them as they had been sent away without notice. No reason is assigned why these 15 workers should not have claimed, alternatively, wages for 14 days in the original statement filed by them. The amendment was opposed by the association. I see no valid

and sufficient reason to allow the amendment prayed for. I shall, however, consider the evidence with regard to the eight workers who gave evidence in this case. No. 1 refused to prepare sweets on the 25th November on the ground that there was to be a strike on the 26th November. He thus struck work without notice. His dismissal must therefore stand.

20. Witness No. 2 was only an acting man and was replaced by the permanent man when he returned to resume duty. He was, therefore, not dismissed.

21. Witness No. 5 admitted that he had already received wages for 15 days.

22. Witness No. 3, a young man, aged 22 years, had the audacity to sit by a lady who had come to take refreshments in the hotel. The proprietor condoned his misconduct as he expressed his regret. Afterwards, he overstayed after taking leave and turned up after a substitute was appointed as otherwise the business could not be managed.

23. Witness No. 4 got the loan of a vessel on the pretext of using it for his own purposes; but he utilized it for preparing sweets to a stranger and receiving wages; he got from the stranger the amount of hire and pocketed it himself after having falsely represented that the vessel was required for his personal use. The proprietor of the hotel in which he was employed was examined as witness No. 4 on the side of the association. He swore that the worker had been paid his arrears of salary and was discharged.

24. Workers' witness No. 6 has already received his salary and stopped away.

25. Workers' witness No. 8 has also received his salary.

26. It is really not understandable how, in such circumstances, an amendment of the pleading by adding the alternative prayer of directing payment of 14 days' salary was sought for in respect of the 15 workers mentioned in Appendix A to the union's statement. The amendment cannot be allowed.

27. As some of the points involved in this case were not touched upon in the course of the arguments at the time when the enquiry was closed. I had to re-open the case with notice to the parties and hear further arguments. After further arguments were heard, the advocate for the workers' union filed a memorandum on 27th April 1948. This memorandum relates to the 54 workers mentioned in Appendix M of the union's rejoinder. Just as in the case of the 15 workers mentioned in Appendix A of the union's first statement, the prayer for reinstatement was not pressed. The reliefs in respect of the last 11 workers mentioned at page 30 (last portion of Appendix M) were wholly given up (vide union's advocate's memorandum filed on 27th April 1948 the day when further arguments were heard). But the prayer for the 14 days' salary

in respect of 13 workers of Nandhikeswara Vilas Hotel and 30 workers of Manikka Valli Bhavan stands and has to be considered. The prayer is found in the original statement. I have already referred to the evidence given by workers' witnesses Nos. 14 and 15 who were among the 13 employed in Nandhikeswara Vilas Hotel. The remaining 11 workers have not come forward to give evidence. But it was stated that the statement filed by the union was on their behalf also. As I have held that the lock-out in Nandhikeswara Vilas was illegal, the proprietor should pay 14 days' wages to the 13 workers as and when they apply in writing to him demanding the same.

28. As regards Manikka Valli Bhavan Hotel, I have held that there was no illegal lock-out. None of the 13 workers alleged to have been removed from the service of the hotel on 16th November 1947 has appeared before the Court. The witness examined on behalf of the management of the hotel stated that such of those workers as had not already received the 14 days' wages, viz., 11 individuals, would be paid the same if they should come forward with a claim for the same. In view of the generosity on the part of the management, it is not even necessary to give a finding whether these 30 workers were sent away on lawful grounds or not. It is open to them to apply for payment, if they are so minded.

29. *Issues* 1, 2 *and* 3.—These issues will have to be considered together. The questions of wages, dearness allowance and bonus are interdependent. In the statement filed by the union, it is prayed that Rs. 30 may be fixed as the basic wage for the lowest paid unskilled workers in a ' C ' class hotel such as server or supplier. It is pointed out on behalf of the workers that Mr. Venkataramayya in his Award with regard to Textile Labour has fixed Rs. 26 for an unskilled worker and it was stated by their advocate that the work of an unskilled worker was more exacting than that of a textile worker. I am unable to agree with him in this respect It has also to be noted in this connexion that the Shop Assistants Act has come into force on the 1st April 1948 and no worker can be asked to work for more than eight hours a day. It cannot therefore be said under the existing conditions a worker in a hotel has to work from 5 a.m. in the morning to 11 p.m. at night with brief intervals of rest.

30. On behalf of the workers it was emphasized that the worker should be given a living wage with due regard to the high prices of necessary commodities and that the hotel proprietors are earning enormous profits and have got the capacity to pay higher rates of wages, dearness allowance and bonus. I was informed in the course of the arguments that there were about 400 hotels in Madura City. The proprietors of 286 hotels are members of the Hotels Proprietors' Association (vide list filed). But there are only 51 hotels in class ' A ' and 66 hotels in class ' B ' and 57 hotels in class ' C ' as mentioned in Appendix C to the union's statement. On the

materials before me, it is not possible to know under which category each of the remaining 112 hotels can be brought. The proprietors have no doubt in their memorandum stated that the division into the three categories A, B and C is not quite correct and that the hotels mentioned in Appendix C have to be reclassified. They would have rendered real help to the Court if they had told the Court how the 174 hotels should be reclassified but they were not prepared to help the Court. They did not also put in any memorandum under what category or categories the 112 hotels (286) (174) can be brought in. Only 58 proprietors out of 286 members of the Association filed written statements and appended a list of the workers in the respective hotels with particulars of service and salary. Some of them produced along with the statements a statement of Profit and Loss Account. The original account books were not placed before the Court and the Auditors' reports, if any, were not also placed before the Court. Absolutely no reliance can be placed on the statements filed by these hotel proprietors in the absence of legal evidence and original accounts. The Account Book of only one proprietor (Thiruvengadathu Ayyangar) No. 32 'B' Class was placed before the Court. The son of the proprietor was examined. He stated that his daily sales amounted to about Rs. 200 and that the pay of the workers in the hotel was periodically revised and that there was no dispute between the proprietor and the workers in that hotel. His evidence is of no consequence. In page 26 of the statement by the association, it is stated that "Regarding capacity and the affordability each case has to be gone into on its own merits." In paragraph 17 of the statement, it was also stated that "there were concerns which ended in failure and which are losing." Nobody prevented the proprietors, who were not making profits or who were losing or could not afford to pay any increase in salary or dearness allowance or bonus, from appearing before the Tribunal and giving sworn testimony and by placing the accounts in their possession for scrutiny by the other side and the Tribunal. On the side of the workers, the hotel proprietors were summoned to appear before the Court and give evidence. But they did not appear in pursuance of the summons. I also gave the ruling that a party to a civil proceeding has no right to summon his adversary as his witness and cross-examine him and that if the summoned accounts are produced and inspected, the party who produced the documents can request the Court to have them marked as exhibits on his side. The workers were not given the opportunity to look into the accounts of the proprietors. They were not produced at all. The proprietors did not venture into the witness box to tell the Court whether they can or cannot afford to pay to their workers more than the present rates. There was no opportunity given to the workers to cross-examine them. In such circumstances the workers are entitled to ask the Court to presume that the proprietors have got the capacity to pay increased rates and I hold accordingly.

31. It was argued on behalf of the workers that they must have not only a minimum wage but also a living wage under the present conditions of soaring prices of necessary articles of food and clothing and high rents.

32. In Appendix E of the union's statement the budget of an average hotel worker's family (according to their view) with all the details is given. The substance of the statement given is that for a family consisting of two adults and two children—two children to be considered as one unit—i.e., to say, for three members living in the village a sum of Rs. 77–11–1 per mensem would be required or Rs. 26 per head roughly. It is also mentioned in that budget that the worker who has to live in Madura City, has to spend Rs. 19–8–0 every month, though he has free boarding and lodging in the hotel in which he is employed. Two items in this table, I consider, are not essential, viz., Rs. 4 for betelnuts, cigars, snuff and beedi and Rs. 1–8–0 for entertainments.

33. If the budget framed by the union should be accepted, the worker will have to get Rs. 78 for the maintenance of his family in the village and Rs. 19–8–0 for his own personal expenses in Madura City, besides the minimum pay of Rs. 30 (I am considering the case of an unskilled worker in a 'C' class hotel) as per the union's statement, that is to say Rs. 127–8–0. Besides this, the union wants four months' bonus which works out to Rs. 10 per mensem and dearness allowance of at least Rs. 12–8–0 per mensem, that is to say, the proprietor of a 'C' class hotel should pay Rs. 150 for an unskilled worker. I have given the above details to show how extravagant the claim is.

34. It was strenuously argued on behalf of the proprietors that the hotel workers are placed in a singularly advantageous position unlike the workers in other industries, in that they are provided free boarding and lodging, besides a bonus of a month's salary on the occasion of the *Deepavali* festival. It cannot be denied that in no other industry the workers are supplied two principal meals, early breakfast and evening tiffin and coffee at least four times a day.

35. In Appendix A-1 of the statement of the association the particulars for feeding a worker for a day are given: the cost of providing them with the principal meals, light refreshments and coffee is said to come to Rs. 3 per day. The cost of each item, has been grossly exaggerated. It is obvious that for each item the value is entered as recovered from a customer and the amount is given as Rs. 3. For the two principal meals the cost cannot exceed 9 annas. The cost for preparing a cup of coffee will not exceed one anna. The charges entered for the tiffin are also high; when meals or refreshments are prepared on a large scale the cost would be far less than the cost of preparing the same for a single individual. The cost of feeding one worker, as per my estimate, will come to Rs. 37–8–0 per mensem, that is Rs. 1-4-0 per diem.

36. Even according to the particulars given in the family budget appended to the workers' statement Rs. 26 would be necessary for meeting the expenses of food and clothing of a member in a village. Town life is undoubtedly more expensive than village life.

37. It was suggested during the conciliation proceedings that dearness allowance at a flat rate of Rs. 12–8–0 for all workers drawing Rs. 50 and below, bonus of three months' salary inclusive of the Deepavali bonus might be allowed to a worker. This suggestion appeared to be agreeable to the workers but was rejected by the proprietors. If the monthly salary of unskilled worker is fixed at Rs. 25, Rs. 20 and Rs. 17–8–0 for 'A' class, 'B' class and 'C' class hotels respectively and if the suggestion made during the conciliation proceedings can be adopted, the following will be the result :—

	Classes.					
	A.		B.		C.	
	RS.	A.	RS	A.	RS.	A.
Wages	25	0	20	0	17	8
Dearness Allowance	12	8	12	8	12	8
Bonus (3 months salary)	6	4	5	0	4	6
Charges for free boarding and lodging at Rs. 1–4–0 per diem.	37	8	37	8	37	8
Total ..	81	4	75	0	71	14

38. The peon under Government gets Rs. 16 as salary, Rs. 18 as dearness allowance and Rs. 3 as house-rent. In all he gets only Rs. 37 per mensem.

39. Lower division clerks in Government service, some of whom are graduates, get Rs. 45 as salary, dearness allowance Rs. 22 and house-rent allowance Rs. 5. In all the clerk gets Rs. 72.

40. If the scale above mentioned is adopted, an unskilled worker in a 'C' class hotel gets practically the same amount which a lower division clerk in Government service gets.

41. In view of the circumstances above mentioned, I fix the basic wage of an unskilled worker in 'A' class hotels at Rs. 25, 'B' class at Rs. 20 and 'C' class at Rs. 17–8–0 per mensem.

42. If any unskilled worker in any of the three classes of hotels is actually getting a salary higher than that fixed by me, my award will not have the effect of reducing it to his disadvantage.

43. As regards dearness allowance, I fix a flat rate of Rs. 12–8–0 for all grades of workers in all the three classes of hotels who get Rs. 50 and below and for those workers who get over Rs. 50, I fix a flat rate of Rs. 10 per mensem as dearness allowance.

44. As regards bonus, all the workers in the three classes of hotels will receive three months' salary as bonus, one month's salary on the occasion of the *Deepavali*, one month's salary on the occasion of *Thai Pongal* and one month's salary on the occasion of the first of *Chitrai* (*Chaitrai Vishu*). The bonus shall be paid during the week prior to the said occasions.

45. The findings as regards issues 1, 2 and 3 are as above stated.

46. *Issue* 1 (*a*).—The wage structure as proposed by the Workers' Union is found in Appendix ' G ' to the Union's rejoinder. It will be noticed that they have mentioned 12 categories of workers in ' A ' class hotels, 10 in ' B ' class hotels, 7 in ' C ' class hotels and 9 in boarding and lodging houses and 5 in meals hotels and 6 in ' A ' class sweet shops and 4 in ' B ' and ' C ' class tea-hotels and 6 in military meals hotels. These categories were not mentioned in the original statement filed by the Union and there was no opportunity for the Hotel Proprietors' Association to file any additional pleading after the rejoinder filed by the Workers' Union. There are absolutely no data before me to ascertain whether these are all the categories of workers and what amount of skill is expected of each category of worker and what will be the reasonable salary for each category of worker. In such circumstances, I have to confess my inability to build the wage structure for the several categories of workers. Further, I feel that the salary must be fixed according to the qualifications of the particular skilled worker. It is a matter which would be satisfactorily fixed only by the employer. As the salary of a particular skilled worker should depend upon the degree of his proficiency, it must be a matter of specific contract between him and the employer at the time when he is taken for service. The proprietors complain that the workers do not stick to one hotel and they leave all on a sudden if a higher salary is offered in another hotel or on festival occasion when for temporary services temptingly high daily wages are offered and paid. It was also pointed out on behalf of the proprietors that, if a proprietor should send away a worker without notice, he was asked to pay 14 days' wages, while if a worker deserted or suddenly stopped away without notice, the law has not provided for any ' hold ' for him on the worker. (Of course a civil suit for damages would lie.) I should certainly sympathize with the proprietor in this respect. I would, therefore, provide a safeguard. The salary of every worker shall be paid only on the 10th of the succeeding month. No employer shall send away or terminate the services of any worker without serving on him a notice in writing giving 14 days' time.

47. I have fixed only the minimum salary of a *full-timed* (by full-timed worker, I mean a worker who is given work for 8 hours a day and who is given free food), unskilled worker in the three classes of hotels. If the present salary of any of them exceeds the

salary that I have now fixed, they will be given an increment of Rs. 2 per mensem over their existing salary with effect from 1st July 1948. All other workers, skilled or semi-skilled, shall have an increment of Rs. 3 per mensem with effect from 1st July 1948. No further increment can be claimed for one year from 1st July 1948. The revised scales of pay and rates of bonus and dearness allowance shall take effect from 1st July 1948. The revised rates for unskilled workmen, increment for others, bonus and dearness allowance are payable only to workers who have been in service in the respective category from 1st January 1947 and who continue in service till 1st July 1948.

48. The classification of the 174 hotels mentioned in the Workers' Union's statement is accepted by the Tribunal. Leave is given to the proprietors of the hotels, who were not members of the Association during the pendency of these proceedings, to apply, if considered necessary, to get adjudication regarding the placing of any particular hotel in A class, B class or C class.

APPENDIX "C".

List of hotels and allied establishments in Madura City, classified into three groups on the basis of daily turnover.

CLASS "A".

(Daily turnover above Rs. 200.)

Name of establishment and address.

(1) Uduppi Boarding and Lodging, West Masi Street; (2) Teppakulam Lodge, Perumal Teppakupam Street; (3) Mani's Cafe, Town Hall Road; (4) Ambal Cafe, Town Hall Road; (5) College House, Town Hall Road; (6) Harrison Cafe, West Avani Moola Street; and (7) Dinakaran Lodge, West Perumal Maistri Street.

Restaurants.

(8) Uduppi Restaurant, West Tower Street; (9) Rama Cafe, West Tower Street; (10) National Restaurant, West Masi Street; (11) Towfeek Hotel, Town Hall Road; (12) New London Tea Hotel, Town Hall Road; (13) Bhima Vilas, Town Hall Road; (14) Ceylon Tea Hotel, Town Hall Road; (15) Meenakshi Food Company, West Masi Street; (16) Jayalakshmi, Central Bus Stand; (17) Renga Vilas, South Avani Moola Street; (18) Lakshmi Lunch Home, South Masi Street; (19) Jaya Vilas, Chinnakadai; (20) Mysore Ananda Bhavan Periya Vilakku Thoon; (21) Subramania Vilas, Palace Road; (22) National Cafe, Palace Road; (23) Madras Restaurant No. 2, South Gate; (24) Mangala Vilas, Ramnad Road; (25) Ganesa Bhavan, Ramnad Road; (26) Sarada Lunch Home, Ramnad Road; (27) Madras Restaurant No. 3, Ramnad Road; (28) Mangala Vilas (B), South Masi Street; (29) Shanmukha Vilas, East Veli Street; (30) Uduppi Hotel, East Veli Street; (31) Koya Tea Hotel, East Veli Street; (32) Marakatha Valli, East Veli Street; (33) Indira Vilas, Yanaikkal; (34) Pandya Bhavan, North Vadam Pokki; (35) City Coffee Bar, Goods Shed Street; (36) Meenakshi Vilas, Mani Nagaram; (37) Modern Lodge, North Masi Street; (38) Royal Hotel, East Avani Moola Street; (39) Manikka Valli Bhavan, East Avani Moola Street; (40) Radha Central, East Avani Moola Street, (41) Nethaji Hotel, East Avani Moola Street; (42) Shanmugha Lunch Home, East Avani Moola Street; (43) Lakshmi Vilas, East Avani Moola Street; (44) Manikka Valli Bhavan, East Avani Moola Street; (45) Nithyananda Bhavan, Venkala Kadai Street; (46) Nagalinga Bhavan, East Chitrai Street; (47) Dhana Lakshmi Bhavan,

East Chitrai Street; (48) Muthu Vilas, West Tower Gate; (49) Muthu Vilas (Bombay), Amman Sannidhi; and (50) Original Mittai Shop, East Avani Moola Street.

Military Hotel.

(51) Swaminatha Pillai Meals Club, West Tower Gate.

CLASS "B".

(1) Jyothi Krishna, Town Hall Road; (2) Nithya Kalyani, Town Hall Road; (3) Meenakshi Vilas, East Marret Street; (4) Jay Sitharam Cafe, West Masi Street; (5) Mani Bhavan, West Masi Street; (6) Ananda Natesa Bhavan, West Masi Street; (7) Karthika Bhavan, West Masi Street; (8) Nehru Cafe, South Masi Street; (9) Nandikeswara Vilas, South Masi Street; (10) Lakshmi Lunch Home, South Masi Street; (11) Mangala Vilas, South Masi Street; (12) Mangala Vilas (Branch), South Masi Street; (13) Thermutti Seenu Iyengar Shop, South Masi Street; (14) Devi Hindu Hotel, Main Guard Square; (15) Kopu Iyengar Hotel, West Chitrai Street; (16) A. S. Mani Iyer's Hotel, Mani Nagaram; (17) New Chandra Vilas, Mani Nagaram; (18) Bala Krishna Bhavan, Pichai Pillai Lane; (19) Jayaram Cafe, Arapalayam Cross Road; (20) City Cafe, Arapalayam Cross Road; (21) Subramania Vilas, New Jail Road; (22) Eswara Vilas, Goods Shed Street; (23) Gopalram Cafe, Simmakkal; (24) Karthika Bhavan (Branch), New Street; (25) Shanmukhananda Bhavan, New Street; (26) Karunanda Vilas, Simmakkal; (27) Shanmukha Vilas, Yanaikkal; (28) Azhakananda Bhavan, East Veli Street; (29) Dhanalakshmi Bhavan, Ramnad Road; (30) Bhanu Chandra Vilas Santhapettai; (31) Krishna Vilas, Mahal Road; (32) Thiruvengadathiengar's Hotel, Mahal Road; (33) Ramakrishna Lunch Home, Mahal Road; (34) R.G.S.S., Mahal Road; (35) Chandra Cafe, Manjanakara Street; (36) Meenakshi Chandra Bhavan, South Gate; (37) Venugopal Vilas, South Gate; (38) Mahaganapathi Lunch Home, Chinnakadai; (39) Guha Vilas, Dindigul Road; (40) Central Lunch Home, Dindigul Road; (41) Janardhana Vilas, Dindigul Road; and (42) Milk Dairy, South Masi Street.

Meals Hotels.

(43) Majina Hotel, West Tower Street; (44) Rama Lodge, West Masi Street; (45) Bharatha Vilas, Amman Sannadhi; (46) Thavamani Vilas, Vitta Vasal; (47) Modern Lodge (Branch), North Vadam Pokki; (48) Ganesh Lodge, West Masi Street; (49) Saival Meals Hotel, East Chitrai Street; and (50) Meenakshi Chandra Bhavan, East Chitrai Street.

Tea Hotels.

(51) Baby Victoria, Main Guard Square; (52) Jayalakshmi Vilas, Main Guard Square; (53) Towfeek Hotel, Tahsildar Palli Vasal; (54) Rama Vilas Tea Hotel, Munissali; (55) Krishna Vilas, Simmakkal; (56) Muslim Tea Hotel, South Gate; (57) Muneeswara Vilas, South Gate; (58) Imperial Tea Hotel, Central Bus Stand; (59) Mangala Vilas, Mani Nagaram; (60) Subramania Vilas, New Jail Road; (61) Muruga Vilas, Simmakkal; (62) Muruga Vilas, Gouripalayam; and (63) Radhamani Vilas, Gouripalayam.

Sweet Stalls.

(64) Pichumani Iyer's West Tower Gate; (65) Nagapattinam Sweet Stall, West Chittrai Street; and (66) Kamakshi Sweet Stall, East Avani Moola Street.

CLASS "C".

(1) Ambi's Cafe, Dindigul Road; (2) Seenu Iyengar's Hotel, West Tower Gate; (3) Gopalakrishna Bhavan, North Masi Street; (4) Sumukha Vilas, North Avani Moola Street; (5) Gomathi Vilas, South Masi Street; (6) Jayalakshmi Vilas, Main Guard Square; (7) Selai Kadai, North Chittrai Street; (8) Jayalakshmi, Mani Nagaram; (9) Maruthi Vilas, Mani Nagaram; (10) Bala Shanmugha Vilas, Mani Nagaram; (11) Sarma's Cafe, Arapalayam Cross Road; (12) Eswari Vilas, Arapalayam Cross Road; (13) Padhma Jothi, Ottukadai; (14) Gokula Vilas, Pechi Amman Thurai; (15) Coffee Nilayam, Chockappanaicken Street; (16) Narayana Vilas, South

Chittrai Street; (17) Gomathi Vilas, East Veli Street; (18) Ananda Bhavan, East Veli Street; (19) Subramania Vilas, East Marret Street; (20) Valliyoor Rama Iyer Shop, East Veli Street; (21) Uduppi Opposite to Dinamani Talkies; (22) Raja Rajeswari, South Gate; (23) Krishna Sarathi, South Gate; (24) Dhana Lakshmi, South Gate; (25) Mani Vilas, South Gate; (26) New Chappathi Stall, Main Guard Square; and (27) Cawnpore Chappathi Stall, Main Guard Square.

Meals Hotels.

(28) Vasantha Lodge, Town Hall Road; and (29) Brahmins Meals Hotel, East Chittrai Street.

Tea Hotels.

(30) Nambiar Tea Hotel, Town Hall Road; (31) Meenakshi Vilas, East Marret Street; (32) Sakthi Vel, Arapalayam Cross Road; (33) Mahalakshmi, Workshop Road; (34) Bharatha Matha Tea, Mahali Patti; (35) Gopalakrishna Bhavan, Tallakulam; (36) Kasturi Bhai Tea Hotel, Bus stand; (37) Kamakshi Military, Venkala Kadai Street; (38) Saival Club, Venkala Kadai Street; (39) Kundathur Military, Gouripalayam; (40) Ram Ram, West Pattamar Street; (41) Bharathi Vilas, Anuppanadi, (42) Rajalakshmi Vilas, Anuppanadi; and (43) Meenakshi Cafe, Sellur.

Sweet Stalls.

(44) Janardhana Vilas, West Masi Street; (45) Sankaraiyer Sweet Stall, West Tower Street; (46) Pichumani Iyer's West Tower Street; (47) Suri Iyer's, East Avani Moola Street; (48) Sundaram Iyer's Yanaikkal; (49) Sweet Stall, East Veli Street; (50) Mani Iyer's, East Veli Street; (51) Thanu Iyer's, East Veli Street; (52) Venkiteswara Iyer's, Dindigul Road; (53) Meenakshi Sundaram, Chinnakadai; (54) Mahadeva Iyer's, North Vadam Pokki; (55) Padmanaba Iyer's, North Vadam Pokki; (56) Padmanabha Iyer's, Ramnad Road; and (57) Shanmugha Sweet Stall, South Masi Street.

Order—No. 2940, Development, dated 1st June 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the Industrial dispute between the workers and the managements of hotels in Madura has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the managements of the hotels in Madura, and the workers employed therein and directs that the said award shall come into operation on the 1st June 1948 and shall remain in operation for a period of one year.

2. The Commissioner of Labour is requested to send copies of this order and award to the managements of hotels and workers' unions concerned.

(By order of His Excellency the Governor)

K. G. MENON,
Secretary to Government.

XXXVII

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF TANNERIES IN DINDIGUL

and

THE WORKERS.

Subject—The number of skins constituting a unit.—Held, in the absence of any evidence, that until the final award is published the number of skins constituting a unit shall continue to be what it was in the respective factories in November 1947.

Award in terms of the agreement in respect of other matters.

G.O. Ms. No. 2997, Development, dated 4th June 1948

[Labour—Disputes—Dispute between the workers and managements of tanneries in Dindigul—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers:—

(1)

G.O. Ms. No. 6028, Development, dated 23rd December 1947.

(2)

From the Industrial Tribunal of Madura, dated 12th May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT:

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal, Madura.

INDUSTRIAL DISPUTE NO. 9 OF 1948.

Between

The Tannery Workers of Dindigul.

and

The Tanners of Dindigul.

INTERIM AWARD.

In the presence of the two panchayatdars Sri I. Deivabakti Gounder and Janab Abdul Sattar Sahib, the President of the Labour Union and the President of the Skin Merchants Association, Dindigul, brought about a settlement of their disputes and reduced the settlement to writing and signed them. This settlement was arrived at on 25th December 1947.

2. An authenticated copy of the terms of the settlement was placed before me and proved to be a true copy.

3. Under clause 1 (*b*) of the Terms of the Agreement the two panchayatdars have to determine the unit of work in case the Government did not do so before 15th March 1948. The panchayatdars, though they were allowed extension of time, have communicated to me their inability to do so. I have, therefore, to fix it tentatively on practically no satisfactory materials.

4. The number of skins constituting a unit shall, till the final award is published by the Government, be as obtaining in each factory in November 1947 between 1st and 15th. (It will be noticed that under the agreement the accounts have to be settled as from 16th November 1947.) As regards the other points in the dispute, in pursuance of the terms of agreement entered into between the two presidents on 25th December 1947, I pass an award as hereunder :—

(1-*a*) The amount of 9 annas per unit paid as wages to workers shall be debited in the respective ledger pages.

If there be any excess credits or debits, the respective presidents should be answerable for the amounts involved.

(1-*b*) If a worker is present for duty throughout the month exclusive of the weekly holidays, he shall be paid Rs. 16 as dearness allowance; for the number of days during which a worker is absent 10 annas per diem shall be debited out of the dearness allowance.

(2) The leaders of the Labour Union should co-operate with the panchayatdars in their efforts to introduce a group system of holidays for the Sunday holiday.

(3) On no account shall the workers strike without consulting and obtaining the consent of the panchayatdars.

(4) The proprietors shall have power to fine, suspend and dismiss workers who are guilty of misconduct; but a right of appeal to the panchayatdars is allowed to the workers who are so punished.

(5) *Retrenchment.*—It shall be the responsibility of the panchayatdars, in the event of retrenchment having to be effected, to regulate the personnel for discharge in the order of seniority in service.

(6) If a worker should think of quitting service or a proprietor should think of dismissing a worker, 30 days notice shall be given in the case of workers employed in tanning skins and 45 days notice in the case of workers employed in tanning hides.

(7) If proprietors or their maistris or agents are found guilty of improper behaviour towards the workers, the panchayatdars shall take the necessary action against them on the reports by the aggrieved workers.

(8) Towards amounts advanced as loans to the workers the proprietors shall deduct Rs. 5 per mensem. In cases of urgent necessity for accommodation an advance may be given on the letter of the President of the Labour Union.

(9) Tubmen (சால் workers) shall do all items of work as per *mamool.*

They shall work for 8 hours per day. With regard to the practice of the tubmen assisting the knife-men such assistance may be given out of mutual goodwill with which the proprietor has no concern and to which he shall not object. But the knife-men shall do all the work appertaining to knife-work.

(10) No women-worker shall be employed for any item of work inside the shop of the factory. But they can be engaged for doing other work not connected with the shop.

(11) That hereafter there shall be no gift to workers of சகைப் பட்டை or on occasions of Deepavali, Christmas, Easter, Pongal and Ayudha Pooja.

(12) A worker, who has to his credit an annual attendance of 240 working days, shall be paid one month's salary as bonus. A worker with an attendance of 120 days shall be given half a month's salary as bonus. The worker whose attendance falls short of 120 days, shall not be eligible for any bonus.

For workers who do work by units (I think this has reference to piece-rate workers) if they had not absented themselves for more than 120 days in a year they shall be paid wages for 35 units and one month's salary together with one month's dearness allowance of Rs. 16.

(13) Dearness allowance shall be paid only at the end of the month.

(14) Wages paid as per unit shall be paid weekly.

(15) Till the Government fix the number of skins and hides constituting a unit, every worker who turns up for duty and to whom no work could be found by the proprietor, shall be paid wages for one unit of work. But if there be excess units of work, the wages paid for the unemployed days shall be adjusted towards the excess units of work.

(16) That for turning at dewooling pits wages at the rate of As. 1-6 per pit shall be paid, for the work in Ilangaram, wages at the rate of one anna per pit shall be paid.

(17) Upon written requisition by the President of the Labour Union, the agent of the proprietor of factories shall grant permission to any office bearer of the Labour Union to have private consultations with the representative of their union in the particular factory.

(18) In the event of any difficulty arising in the interpretation of any of the clauses in the terms of the agreement, both the presidents shall confer with each other and decide.

(19) All the above clauses shall be in force till the final award is published by the Government. All the factory proprietors shall settle the accounts as from 16th November 1947 in pursuance of their award, dated 18th December 1947.

Order—No. 2997, Development, dated 4th June 1948.

In G.O. Ms. No. 6028, Development, dated 23rd December 1947, the Government directed that the disputes between the workers and managements of the tanneries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award on the basis of an agreement entered into between the workers and managements of tanneries at Dindigul. The Government accept the award and make the following order:—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri Rao Bahadur T. A. Subbiah Pillai, retired District and Sessions Judge) constituted under G.O. Ms. No. 6028, Development, dated 23rd December 1947, to adjudicate in the industrial disputes existing between the workers and managements of tanneries in the Province in respect of tanneries in Dindigul has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the managements of the tanneries in Dindigul and the workers employed therein and directs that the said award shall come into operation on the 4th June 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the tanneries in the Province is accepted by the Government whichever is earlier.

2. The Commissioner of Labour is requested to send copies of this order to the managements and workers concerned.

(By order of His Excellency the Governor)

C. P. MADHAVA MENON,
Assistant Secretary to Government.

XXXVIII

BEFORE THE INDUSTRIAL TRIBUNAL FOR PRINTING PRESSES FOR THE PROVINCE OF MADRAS.

SRI P. MARKANDEYULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF SALEM LAKSHMI VILAS PRESS, MADRAS,

and

KANNIAPPA MUDALIAR, A COMPOSITOR.

INTERIM AWARD.

Subject.—Whether the termination of services of the worker legal and justified.—Held that there was no evidence that the worker had completed his 55th year.

Held that the Standing Orders framed by the Company have not acquired the force of Law as it has not been certified by the Commissioner of Labour as per the Act.

Held that the Standing Orders were intended to be brought into force only from 1st May 1948 and the service of notice of discharge on the 15th April 1948 could not be in pursuance of the Standing Orders.

Held that the worker should be reinstated with effect from the 16th April 1948 and paid his usual salary.

G.O. Ms. No. 2998, Development, dated 4th June 1948.

[Labour—Disputes—Dispute between Kanniappa Mudaliar, Compositor and the management of Salem Lakshmi Vilas Press, Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 6035, Development, dated 27th December 1947.

(2)

From the Industrial Tribunal for Printing Presses for the Province of Madras, dated 14th May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR PRINTING PRESSES FOR THE PROVINCE OF MADRAS.

PRESENT :

SRI P. MARKANDEYULU, M.A., B.L.

[In the matter of the industrial dispute between Kanniappa Mudaliar, worker and the management of Salem Lakshmi Vilas Press, Wallajah Road, Mount Road, Madras.]

INTERIM AWARD.

The petitioner entered the service of the respondent-press as a compositor on 9th October 1946 and has been discharged from the press from 15th April 1948 with an offer of fifteen days' wages in lieu of notice. The reason for his discharge is that he has completed fifty-five years of age and that according to Standing Order No. 3 of the Standing Orders (Exhibit II) framed by the company under the Industrial Employment (Standing Orders) Act, 1946, he is liable to be discharged on account of superannuation. The petitioner contends that he has not yet completed the age of fifty-five years and that his discharge is an act of victimization on the part of the management as he had taken a prominent part in the activities of the labour union and prays that he may be reinstated in the press pending the adjudication by this Tribunal of all other matters in controversy between the management and the workers. It may be stated that notices have been published by this Tribunal in the leading newspapers informing the workers in and the managements of the printing presses in this Province that they may submit their disputes to this Tribunal for adjudication on or before the 20th May 1948.

I am of opinion that the prayer of the petitioner, Kanniappa Mudaliar, should be granted. In the first place there is no proof that he has completed his fifty-fifth year. In the second place the Standing Orders framed by the company (Exhibit II) have not yet acquired the force of Law. They do not appear to have been sent to the Commissioner of Labour; and the Workers' Union has admittedly not yet been asked to state its objections, if any to the proposed Standing Orders as required by the Industrial Employment (Standing Orders) Act, 1946, and the rules framed under it. It is only after the Commissioner of Labour has considered the objections, if any, of the workers and approved of the draft Standing Orders that they become binding on the workers and the managements. This stage has not yet been reached.

Another irregularity is that, though it is stated in the Standing Orders that they will come into force only on 1st May 1948, the petitioner was served with a notice of discharge (Exhibit A) on 15th April 1948 itself.

For all these reasons I hold that the discharge of the petitioner Kanniappa Mudaliar is illegal and allow this application. In the view I have taken it is unnecessary to decide whether this is a case of victimization or not.

The Madras Press Labour Union has sent a communication to the respondent-press (Exhibit E), dated 4th January 1948, in which a number of demands are made which will have to be considered at the final adjudication.

I hereby make an interim award directing that the petitioner Kanniappa Mudaliar should be taken back into the service of the Salem Lakshmi Vilas Press (respondent-press) with effect from 16th April 1948 and that he should be paid his usual salary and allowances till the conclusion of the proceedings before this Tribunal.

Order—No. 2998, Development, dated 4th June 1948.

In G.O. Ms. No. 6035, Development, dated 27th December 1947, the Government directed that the disputes between the workers and managements of printing presses in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri P. Markandeyulu, retired Judge, City Civil Court, Madras. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between Kanniappa Mudaliar, compositor, and the management of Salem Lakshmi Vilas Press. The Government accept the award and make the following order :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri P. Markandeyulu, retired Judge, City Civil Court, Madras) constituted under G.O. Ms. No. 6035, Development, dated 27th December 1947, to adjudicate in the industrial disputes existing between the workers and managements of printing presses in the Province, in respect of the dispute between Kanniappa Mudaliar, compositor and management of Salem Lakshmi Vilas Press, Madras, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Salem Lakshmi Vilas Press and Kanniappa Mudaliar, compositor, employed therein and directs that the said award shall come into operation on the 4th June 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of printing presses in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

C. P. MADHAVA MENON,
Assistant Secretary to Government.

XXXIX

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

SRI T. D. RAMAYYA PANTULU.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF MESSRS. KUTTY AND RAO ENGINEERS, LIMITED, MADRAS,

and

THE WORKERS.

INTERIM AWARD.

Subject.—1. *Whether Tribunal had jurisdiction to hear dispute relating to dismissal of six workers.*—The contention that the Tribunal had no jurisdiction as there was no specific reference of the dispute to the Industrial Tribunal, negatived.

Held that the general reference of disputes existing and apprehended between the workers and managements of Engineering firms vested jurisdiction in the Tribunal and that the dismissals came under section 33 of the Industrial Disputes Act.

2. *Whether the dismissal of six workers justified.*—*Held* that the dismissal of Michael could not be justified and that he should be reinstated.

Held that the dismissal of Cochu Krishnan and Vidyadaran were justified as they were guilty of indiscipline.

Held that the dismissal of Alwar could not be justified as there was no proof of his assaulting another worker outside the factory. Ordered reinstatement of the worker.

Held that the conduct of Govindasami did not merit dismissal. Ordered reinstatement.

Management agreed to take back the discharged worker Kannappa Mudaliar.

G.O. Ms. No. 2999, Development, dated 4th June 1948.

[Labour—Disputes—Dispute between the workers and management of Messrs. Kutty and Rao, Engineers, Limited—Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers—

(1)

G.O. Ms. No. 1115, Development, dated 5th March 1948.

(2)

From the Industrial Tribunal for Engineering Firms and Type Foundries, dated 17th May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE, MADRAS.

[In the matter of the dispute between the workers and the management of Messrs. Kutty and Rao, Engineers, Limited, Madras.]

INTERIM AWARD.

It is necessary to refer at the outset to the preliminary point raised for the management. It was argued that since there is no specific reference of any dispute of Messrs. Kutty and Rao and their workmen and since the Government have not referred the question of the validity or otherwise of the dismissal of the six workers, the Tribunal has no jurisdiction to consider the matter of dismissals. The short answer to this is the general and comprehensive character of the G.O. Ms. No. 1115, Development, dated 5th March 1948, under which the Tribunal was constituted. The notification refers to the existing disputes between the workers and the managements of certain engineering firms and type foundries in the Province and also to apprehend industrial disputes in the rest of the firms and foundries in respect of certain matters.

2. The Government have referred to the Industrial Tribunal both existing and apprehended industrial disputes for decision. Considering the relations between the employers and workers at the time of the Government Order, it was perhaps deemed necessary to include future apprehended disputes as well to obviate the necessity of numerous individual references. I am of opinion that the dismissals of the workers in question come within the scope of section 33 of the Industrial Disputes Act. This is subject, of course, to the exception mentioned therein, namely, dismissal for misconduct not connected with the dispute.

3. This dispute relates to the dismissal of six workers, Michael, Cochu Krishnan, Vidyadaran, Alwar, T. C. Govindaswami and Kanniappa Mudaliar of Messrs. Kutty and Rao.

4. It is necessary to mention that there was a strike in the workshop of Messrs. Kutty and Rao and an attempt was made to end the impasse by compromise. There was a dispute as to whether the compromise was to open the workshop on the 8th of April or on the next day. The matter was settled by another order to the effect that the workshop was to open on the 8th of April. It was also held that the lock-out declared by the management on the 8th of April itself was not consequential upon the anterior strike and was, therefore, not legal. The workers were

advised to resume work subject to the result of the pending dispute on the 15th of April and they did so. Then come the dismissals.

5. Cochu Krishnan was dismissed on the 16th April, Michael on the 17th April, Vidyadaran on the 15th April, Alwar on the 17th April, Govindaswami on the 17th April and Kanniappa Mudaliar on the 27th April. These dismissals were not made with the permission of the Tribunal. It is contended for the management that they were made for misconduct unconnected with the pending dispute. Michael was dismissed on the ground that he did not obey an order given to him on the 15th March to supervise certain work in and about Gummidipundi and Avadi. Another ground alleged is that he wrote certain libellous letters to others. So far as the latter point is concerned, there is nothing much. As regards the disobedience of orders, it is curious that no action was taken against him soon after the alleged disobedience. The management waited until after the 15th April when the workers returned to work and then the dismissal order was made on the 17th of April. It is in evidence that his antecedents were good. There was no justification for his dismissal, and I consider that he should be allowed to resume his work.

6. The allegation against Cochu Krishnan and Vidyadaran is that on the 13th March and the 17th March 1948, they forcibly stopped certain carts loaded with iron and brass sheets belonging to constituents of the firm from going out of the gate. So far as this matter is concerned, there is reliable evidence for the management pointing to the conduct of these two workers Besides the evidence of the Director-in-charge, Mr. Jayanthi, there is the testimony of the supervisor of Tarapore Company that his firm's loaded carts were prevented from going out of the gate in spite of his complaint to the manager who actually came and stood at the gate. Cochu Krishnan denies that he obstructed the carts but says that he went and told Mr. Jayanthi that the workers would suffer if the materials were sent out of the factory. It is difficult to believe him. After all there was no justification for the workers to obstruct a cart of a constituent from going out of the factory. The conduct of both Cochu Krishnan and Vidyadaran cannot be defended and is opposed to all discipline. There is also another allegation against Cochu Krishnan and Vidyadaran that they pushed or tried to push the supervisor of the factory on the 20th March at 9 a.m. This related to the previous strike and as the strike was the subject matter of a dispute, the management cannot put this forward as a ground for dismissal. In my view, however, the other grounds alleged have been established and they justify the dismissals of these two workers, Cochu Krishnan and Vidyadaran.

7. As regards Alwar, he is said to have assaulted another worker, Gopalan not in the Factory but elsewhere. Gopalan has not been examined, and the assault cannot be said to have been

proved. Another worker, Khan, is said to have been beaten by Alwar. But here again there is no satisfactory proof. Another ground for dismissal is that he wrote a letter to the father-in-law of a worker commenting adversely upon the management. I do not think there is anything serious in the letter. The dismissal of Alwar is not justified and I consider that he should be taken back.

8. The management allege that Govindaswami ceased to do his work before 4 p.m. on the 17th April 1948 and persuaded others also to stop work and invited the management to dismiss him. Govindaswami says that on the 17th April, the factory bell was not struck at the usual hour though it was 4-15 p.m. and a Saturday. He says he went to Mr. Jayanthi and told him that the bell was not rung though the time was up. Then, he is said to have been dismissed and an order was given. Mr. Jayanthi says that the clock of the factory was not working that day and that he relied upon the time-piece on his desk for starting and closing the factory. It seems to me that the action of Govindaswami was the result of some misunderstanding about time and that his representation to the manager and his failure to take the permission of the maistri to see the manager do not merit his dismissal. I consider that he should be taken back.

9. Another Kanniappa Mudaliar was dismissed on the 27th of April. During the course of the enquiry, Mr. Jayanthi said that he would take him back. He was directed to join work on the 7th of May producing a medical certificate which he had obtained.

10. I pass an interim award accordingly.

Order—No. 2999, Development, dated 4th June 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of Engineering Firms and Type foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and management of Messrs. Kutty and Rao, Engineers, Limited, Madras. The Government accept the award and make the following order :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development. dated 5th March 1948, to adjudicate in the industrial disputes existing between the workers and managements of Engineering Firms and Type foundries in the Province in respect of Messrs. Kutty and Rao, Engineers, Limited, Madras, has been received :

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of Messrs. Kutty and Rao, Engineers, Limited, Madras, and the workers employed therein and directs that the said award shall come into operation on the 4th June 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the engineering firms and type foundries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

C. P. MADHAVA MENON,
Assistant Secretary to Government.

XL

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

SRI T. D. RAMAYYA PANTULU, M.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE LAKSHMI ENGINEERING WORKS, MADRAS,

and

THE WORKER, T. SUBRAMANIAM, MOULDER.

Subject—Whether the dismissal of the worker justified.—Held on the evidence that misconduct on the part of the worker has been established and that the dismissal was right and proper.

G.O. Ms. No. 3000, Deevlopment, dated 4th June 1948.

[Labour—Disputes—Dispute between T. Subramaniam, moulder, and management of Lakshmi Engineering Workers, Madras—Interim recommendation of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 1115, Development, dated 5th March 1948.

(2)

From the Industrial Tribunal for Engineering Firms and Type Foundries, Madras, dated 17th May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL FOR ENGINEERING FIRMS AND TYPE FOUNDRIES IN THE PROVINCE OF MADRAS.

[In the matter of the dispute between the workers and the management of Lakshmi Engineering Works, Madras.]

INTERIM AWARD.

This dispute arises out of the dismissal of T. Subramaniam, a moulder in Lakshmi Engineering Works. The dismissal was after the Court of Enquiry was constituted and was made without the permission of the Court. It is, however, contended for the management that he was dismissed for misconduct unconnected with the dispute which the Tribunal has to consider. The management dismissed him on the ground that he assaulted another workman, Joseph. Joseph says that he was beaten by Subramaniam when he complained to him that another workman, Adikesavan, beat him while he was drinking water at the water-tap. Adikesavan however says nothing about Subramaniam's beating Joseph but that he himself was assaulted by Joseph, though he did not complain about it to the management. Another worker Govindaraju Mudaliar supported the version of the management that Subramaniam beat Joseph. The partner of the firm gives evidence about this. The management was willing to let Subramaniam work if he expressed regret for his misbehaviour; but he declined to do so and chose to rest on the merits of his defence. I have no doubt upon the evidence that the dismissal was right and proper and that there is no need to interfere with the order of the management.

I pass an interim award accordingly.

Order—No. 3000, Development, dated 4th June 1948.

In G.O. Ms. No. 1115, Development, dated 5th March 1948, the Government directed that the disputes between the workers and managements of engineering firms and type foundries in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri T. D. Ramayya Pantulu, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between T. Subramaniam, moulder, and management of Lakshmi Engineering Works, Madras. The Government accept the award and make the following order:—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri T. D. Ramayya Pantulu, retired District and Sessions Judge) constituted under G.O. Ms. No. 1115, Development, dated 5th

March 1948, to adjudicate in the industrial disputes existing between the workers and managements of engineering firms and type foundries in the Province in respect of the dispute between T. Subramaniam, moulder, and management of Lakshmi Engineering Works, Madras, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of Lakshmi Engineering Works, Madras, and T. Subramaniam, moulder, employed therein and directs that the said award shall come into operation on the 4th June 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the engineering firms and type foundries in the Province is accepted by the Government whichever is earlier.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

XLI

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

SRI C. R. KRISHNA RAO.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MADURA KNITTING COMPANY, MADURA

and

THE WORKERS.

Interim Award.

Award in terms of the compromise.

G.O. Ms. No. 3105, Development, dated 11th June 1948

[Labour—Disputes—Dispute between the workers and management of the Madura Knitting Company, Madura—Interim recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 6036, Development, dated 27th December 1947.

(2)

From the Industrial Tribunal, Coimbatore, dated 24th May **1948.**

BEFORE THE INDUSTRIAL TRIBUNAL, COIMBATORE.

PRESENT :

SRI C. R. KRISHNA RAO.

INDUSTRIAL DISPUTE NO. 2 OF 1948.

[In the matter of the dispute between the workers and the management of the Madura Knitting Company, Madura.]

INTERIM AWARD.

Government referred to me the disputes in all the Hosiery Factories in the Province for adjudication by G.O. Ms. No. 6036, Development, dated 27th December 1947. I sent notices to the management and to the workers of the Madura Knitting Company. After protracted negotiations they have arrived at an agreement. As the matter is now pending before me the proper course is to make an interim award in terms of the agreement which I accordingly make as follows :—

1. (*a*) There shall be two classes of workers, permanent and temporary.

(*b*) Workers who have put in one year of continuous satisfactory service shall be classed as 'Permanent'.

2. The basic pay of all workers shall be raised by Rs. 4 provided that no worker gets less than Rs. 15 per mensem by way of basic pay.

3. The dearness allowance shall be raised from Rs. 24 to Rs. 28 per mensem per worker.

4. No bonus need be paid for the year 1946–47.

5. A Contributory Provident Fund system shall be instituted and each permanent worker shall contribute at the rate of Re. 1 per month. The detailed rules for the working of the Provident Fund Scheme shall be laid down in consultation with the union and shall be printed.

6. All permanent workers with more than 10 years of service at the time of their leaving the service of the company or in the event of death their heirs or nominees shall be paid a gratuity in addition to the Provident Fund of a sum not less than 4 months' pay.

7. Workers shall be entitled to all kinds of leave as awarded to textile workers under the Textile Tribunals' Award, 1947.

8. (*a*) Suitable dining sheds shall be provided for the workers and arrangements shall be made for the supply of cool fresh water.

(*b*) In consultation with the union, the company shall supply articles of food stuff as may be necessary in the canteen.

(c) The company shall provide a separate shed for the use of women workers and a creche fitted with modern amenities and shall supply milk to workers' children free. Further a trained nurse shall be appointed to be in charge of the creche.

9. The company shall appoint as soon as possible a lady doctor also.

10. (a) The company shall provide gloves, masks, etc., to workers employed in the Dyeing and Bleaching departments and shall supply oil to these workers every day.

(b) It is not necessary now to supply shoes to the workers in the Circular department.

11. The company shall secure preference to workers' children in the matter of free scholarship, free supply of books and midday meals in the local Sourashtra High School.

12. The company shall recognize the union.

13. The company shall not make any retrenchment in any department now.

14. A permanent Board of Arbitration shall be set up consisting of one representative of Employer and one representative of Labour, and this Board shall be empowered to discuss and settle all disputes between the workers and management in the future. If there is difference of opinion and no agreement could be reached, the matter shall be referred to an umpire acceptable to both the parties.

Order—No. 3105, Development, dated 11th June 1948.

In G.O. Ms. No. 6036, Development, dated 27th December 1947, the Government directed that the disputes between the workers and managements of Hosiery Factories in the Province be referred for adjudication to an Industrial Tribunal consisting of Sri C. R. Krishna Rao, retired District and Sessions Judge. Now the Industrial Tribunal has submitted an interim award in respect of the dispute between the workers and the management of the Madura Knitting Company, Madura. The Government accept the award and make the following order :—

ORDER.

Whereas the interim award of the Industrial Tribunal (Sri C. R. Krishna Rao, retired District and Sessions Judge) constituted under G.O. Ms. No. 6036, Development, dated 27th December 1947, to adjudicate in the industrial disputes existing between the workers and managements of Hosiery Factories in the Province, in respect of dispute between the workers and management of the Madura Knitting Company, Madura, has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said interim award shall be binding on the management of the Madura Knitting Company, Madura,

and the workers employed therein and directs that the said award shall come into operation on the 11th June 1948 and shall remain in force for a period of one year or till the final award in respect of the disputes between the workers and managements of the Hosiery Factories in the Province is accepted by the Government whichever is earlier.

2. The Commissioner of Labour is requested to send copies of this order to the management and workers concerned.

(By order of His Excellency the Governor)

W. R. S. SATHIANATHAN,
Secretary to Government.

XLII

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENTS OF BEEDI FACTORIES IN TINNEVELLY DISTRICT

and

THE WORKERS.

Subject—Whether the reference of the dispute between the workers and managements of Beedi Factories in Mukkudal and Melapalayam to the Tribunal valid.—Held that the workers in Mukkudal and Melapalayam were not members of the United Beedi Labour Union, that in spite of publication in the papers, none of the workers in those areas had come before the Tribunal, that there was no dispute between the workers and managements in those areas.

Held that Government Order had no reference to the workers in those areas.

2. *Whether the reference of the dispute in Tinnevelly by His Excellency the Governor and not by the Government* ultra vires.—*Held* that under Government of India Act, 1935, the Governor was still the Chief Executive of the Government, that in pursuance of the decision of the Government to direct a reference, the Governor as the Chief Executive authority of the Province had issued the order. *Held* that the reference was valid and *intra vires.*

3. ***Whether the reference was vague and indefinite.—Held* that the plea that the dispute between the parties had not been specified was highly technical, that the letter of the Labour Commissioner to**

Government mentioned the disputes existing between the parties and could be looked into and that the reference was neither vague nor indefinite.

4. *Wages, dearness allowance and bonus.*—*Held* taking into consideration the report of Dr. B. V. Narayanaswami Nayudu, a 30 per cent increase in piece rates for every 1,000 should be given from 1st July 1948.

Claim for dearness allowance and bonus negatived in view of the above award.

Held that workers who had continuously worked from 1st January 1947 to 1st July 1948 should be given work for 23 days in a month giving a minimum work of rolling 750 beedis and in case of involuntary unemployment wages for making 500 sadha or 6 oz. beedis should be paid.

5. *Extension of Factory Act to beedi industry.*—*Held* that it was beyond the competence of the Tribunal to so extend the Act.

6. *Provident fund and gratuity.*—Claim negatived.

7. *Welfare.*—No direction given.

G.O. Ms. No. 3173, Development, dated 15th June 1948.

[Labour—Disputes—Dispute between the workers and managements of beedi factories in Tinnevelly district—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 4835, Development, dated 11th October 1947.

(2)

From the Industrial Tribunal of Madura, dated 9th May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL OF MADURA.

PRESENT :

SRI RAO BAHADUR T. A. SUBBIAH PILLAI, B.A., B.L.,
Industrial Tribunal of Madura.

INDUSTRIAL DISPUTE NO. 5 OF 1947.

Between

The workers of Beedi Factories in Tinnevelly district

and

The management of Beedi Factories in Tinnevelly district.

(*Reference.*—G.O. Ms. No. 4835, Development, dated 11th October 1947.)

AWARD.

On 21st July 1947 the Commissioner of Labour addressed the Government recommending that *the question of wages* for the beedi

workers in Tinnevelly district might be referred to the Industrial Tribunal of Madura for adjudication. It appears that during his visit to Tinnevelly, he discussed with the proprietors of Beedi Factories, the grievances of the beedi workers resulting from non-implementation of the recommendations of Dr. B. V. Narayanaswami Nayudu (as Court of Enquiry), especially the recommendations relating to wages and that the managements expressed their inability to raise the existing level of wages by 25 per cent, since they had raised the wages by one anna only a short time before his visit.

2. Under the Government Order above referred to, the Government accepted the recommendations of the Labour Commissioner and directed that *the dispute* be referred to this Industrial Tribunal, for adjudication under section 10 (1) (c) of the Act.

3. The Commissioner of Labour at my request forwarded to me a list of beedi establishments in Tinnevelly district. Six of them are located in Tinnevelly Junction and Tinnevelly Town. Twenty-four are in Melapalayam, a town situated at a distance of five miles from Tinnevelly Town. Twenty are in the village of Kalakkad about twenty miles from Tinnevelly. Eight are in Mukkudal village about 15 miles from Tinnevelly, one in Eral 25 miles from Tinnevelly.

4. I may, at the outset, mention that there are no beedi factories at all in Mukkudal, but there are eight individuals in Mukkudal who are beedi *merchants*. They are all doing very large business. They distribute tobacco and wrapper leaves to the workers in about sixty or seventy villages in three taluks of the district and collect the finished beedies from them through their agents, bundle them in parcels and send them to the market for sale. About 20,000 workers—*all women*—do the beedi rolling *in their own homes* in their spare hours.

5. I issued notices to all the proprietors of beedi factories and beedi merchants mentioned in the list forwarded to me. Some of them reported that they had closed their business. The notices sent to some were returned unserved. Some of them who were served with notices did not turn up.

6. Some of the beedi merchants of Melapalayam appeared at the first hearing and made sworn statements that there were no disputes between them and their workers. Seventeen merchants of Melapalayam engaged a vakil and filed a joint statement in answer to the memorandum of demands and grievances filed by the Secretary of the United Beedi Workers' Union, Tinnevelly Junction. The other merchants had closed their business before the controversy arose.

7. The beedi merchants of Mukkudal (who are continuing the business) appeared by vakils and filed objection statements in answer to the memorandum submitted by the Secretary of the United Beedi Workers' Union, Tinnevelly Junction.

8. All the six beedi merchants in Tinnevelly Junction and town own factories. They appeared by a common vakil and filed their answer to the memorandum of the Workers' Union.

9. The Workers' Union has its office at Tinnevelly, the headquarters of the district. It is a registered Trade Union. The number of members on the rolls is about 400. Under the rules and by-laws of the Association, all beedi workers in the entire district of Tinnevelly are entitled to become members of the Association. But it is an admitted fact that no worker outside the municipal limits of Tinnevelly Town and its suburbs is a member of the Beedi Workers' Union. Though Melapalayam is situated only five miles distant from Tinnevelly, no worker of Melapalayam has joined the Union. It was admitted by the Union that there is no Workers' or Labour Union in Melapalayam. It was also admitted that there was no Workers' Union in Mukkudal. But workers' witness No. 8, Dasaratharaman, deposed that in February 1948, that is to say, about four months *after* this Tribunal was directed to adjudicate upon the disputes that existed between the beedi workers and proprietors of beedi *factories*, a Union was started and that the Union has not yet been registered as a Trade Union, though an application has been made for registration.

10. Since it was brought to my notice at the earlier stages of the enquiry that there were no Labour Unions in Melapalayam, Mukkudal, Kalakkad and Eral and that no beedi worker in those areas was a member of the Beedi Workers' Union in Tinnevelly Junction, I suggested to the Secretary of that Union that he might publish in some daily that this Tribunal was sitting at Tinnevelly to enquire into the disputes referred to it for adjudication by the Government and that any worker *who wishes to be heard* might appear before the Tribunal at the date of hearing. Accordingly a notification was published by that Union in a Tamil daily "Swadesamitran", dated 3rd December 1947. But no worker from those areas appeared in response to this notification and presented any statement of demands or grievances. I received a communication by post from some person in Tuticorin that a Labour Union had just then been started and that it has been affiliated to the Union at Tinnevelly Junction. No office-bearer of that Union at Tuticorin appeared at the time of the enquiry. Admittedly it is not registered Trade Union. There is also no proof that it has been affiliated to the registered Union at Tinnevelly. On the basis of the facts narrated above, the vakils for the proprietors of beedi *factories* in Melapalayam and the beedi *merchants* of Mukkudal asked me to conclude that no worker outside Tinnevelly municipal limits has any grievance and that the dispute was only between the workers in the beedi factories within Tinnevelly municipal limits and the proprietors thereof. The argument is certainly acceptable.

11. A number of technical objections have been raised by the beedi merchants and proprietors of beedi factories who are

represented by vakils. I do not propose to mention them in detail at this stage as I shall have to refer to them in detail while dealing with the issues relating to those points.

12. The points in dispute between the Beedi Workers' Union at Tinnevelly Junction on the one hand and the beedi *merchants* of Mukkudal and Melapalayam on the other hand are practically the same. I may point out in this connexion that there are some small beedi factories in Melapalayam, that is to say, factories with a small number of workers and that the bulk of the beedies which were being sent to the market from Melapalayam were those *made by women workers in their own homes* with the tobacco and wrapper leaves supplied to them by the beedi merchants.

13. On the pleadings filed by the Melapalayam and Mukkudal merchants, the following points arise for decision :—

(1) Whether the United Beedi Labour Union is a registered Trade Union.

(2) Whether the Union is entitled to represent the beedi workers of Melapalayam and Mukkudal who are not admittedly members of the Union.

(3) Whether there are any industrial disputes between the beedi workers of Melapalayam and Mukkudal and their employers and whether the G.O. No. 4835, dated 11th October 1947, has made a valid reference of such disputes to this Tribunal.

(3-A) Whether the validity or propriety of the Government Order cannot be questioned.

(4) Whether in the absence of any specific reference to any disputes in the Government Order and in the memorandum submitted by the United Beedi Labour Union this Tribunal should consider the case of Melapalayam and Mukkudal workers.

14. *First issue.*—The certificate of registration was produced at the time of the final enquiry. I find that the Labour Union at Tinnevelly Junction is a registered Trade Union.

15. *Second issue.*—The number on the rolls of the Labour Union at Tinnevelly Junction is about 400. Though under the rules of that Union any beedi worker in any part of the Tinnevelly district is entitled to apply to be enrolled as a member, till now no worker outside the municipal limits of Tinnevelly Town and its suburbs have joined the Union, despite the efforts made by the office-bearers of that Union *subsequent* to the proceedings started before this Tribunal. There are not less than 20,000 workers (*all women*) in Mukkudal area. Admittedly none of them has joined the Union at Tinnevelly Junction. The majority of the workers in Melapalayam are *women* workers. They have also not joined the Union. The small number of *male* workers in Melapalayam have also not joined the Union. The Labour Union said to have come into being at Tuticorin some months *after* the Tribunal began its sittings in

Tinnevelly has not been proved to have been affiliated to the Union at Tinnevelly Junction. In the circumstances, I must hold that the Union at Tinnevelly, which can boast of only 400 members, is not entitled to represent the several thousands of beedi workers in Melapalayam, Mukkudal area and other villages situate outside the Tinnevelly municipal limits.

16. *Third issue.*—There is not even an allegation in the memorandum filed by the Secretary of the Union at Tinnevelly Junction that there were any disputes at all between the beedi workers of Melapalayam and their employers. On the other hand there is evidence to the effect that there was *no* dispute at any time in Melapalayam. The only witness who comes from Mukkudal area is Dasaratharaman. On his own showing, he is not a beedi worker in the Mukkudal area. He was employed as a supervisor under some of the beedi merchants of Mukkudal. He appears to have been employed for short periods under some of the merchants of Mukkudal and was sent out by every one of them. He has been putting forward a claim against his latest employer while the employer was claiming that some amount was due from him. Very little reliance can be placed on the statements made by him. Nobody was called to corroborate his statements.

17. The agents or managers or accountants of the merchants of Mukkudal were called as witnesses in support of their case that there was *no* dispute between the employers and the workers, who were all women doing the work of beedi rolling in *their own homes*. No woman worker or any male relation of any woman worker came forward to challenge the testimony furnished by these witnesses. The workers of Mukkudal and the workers of Melapalayam are not members of the Union at Tinnevelly Junction. In such circumstances, it is indeed extraordinary that the Secretary of the Union should state on their behalf that disputes exist between the workers in those villages and their employers and that they call for adjudication. 'A' can speak on behalf of 'B' only if 'B' has authorized 'A' to act and speak for him. The mere statement of 'A' unsupported by the authorization of 'B' will not suffice to make 'A' the agent of 'B'. If, as a result of such unauthorized representation by 'A' the interests of 'B' should suffer, can 'B' be made to suffer by reason of the gratuitous service of 'A'?

18. My finding on the first part of issue 3 is that there is no industrial dispute between the beedi workers of Melapalayam and Mukkudal and their employers.

19. The second part of the issue must be found in the negative in view of my finding of the first part of the issue. The Government Order directing adjudication in this case cannot have reference to a dispute *which did not exist at the time of the reference.* It has also not been proved that any dispute has since arisen, assuming that the Tribunal should adjudicate upon those disputes.

20. It is just possible that the women workers of Mukkudal may be longing to have an increase in their wages and that their voices have been muffled by reason of the influence of their *Muthalalis*, i.e., the employers. They may be afraid to appear *before this Tribunal to voice their grievances, let they should be victimised* or starved by suspension of business. It is a pity that the women workers are unorganized and that by force of circumstances they have to keep their mouths shut and allow the capitalists to exploit them. *In the absence of a complaint by a duly authorized representative*, no relief can be granted to them.

21. *I hold that the Government Order can have no reference to Mukkudal and Melapalayam workers.*

22. *Issue* 3-*A*.—Since on the third issue I have found that there is no dispute between the workers of Melapalayam and Mukkudal and their employers and that the Government Order could have no reference to the workers in those areas, this issue reduces itself to an academical question. *No finding on this issue is called for.*

23. *Issue* 4.—In view of my finding on issue 3, this issue also must be found in the negative. *The Tribunal need not consider the question.*

24. With reference to the dispute between the beedi workers in Tinnevelly Junction and Tinnevelly Town on the one hand and the proprietors of the six beedi factories, the following issues were framed and they will be consecutively numbered :—

(5) Whether the reference is illegal or *ultra vires* as the Government Order has not been issued by the Provincial Government and issued only by His Excellency the Governor.

(6) Whether the reference is vague and indefinite.

(7) What is the rate of wages that can be fixed?

(8) Whether the workers are entitled to dearness allowance and bonus and if so at what rates?

(9) Whether the provisions of the Factory Act can apply to these beedi factories.

(10) What provisions should be made or directions given as regards working conditions, canteen, medical aid, provident fund, gratuity and security of services?

25. *Issue* 5.—It was pointed out by the vakil for proprietors of the beedi factories in Tinnevelly Town and Junction that, while under section 10 (1) of the Act, it is the *Government* that is competent to refer an industrial dispute to a Tribunal for adjudication, the Government Order under which the reference is made specifically mentions that the authority directing the reference is His Excellency the *Governor* of Madras and it is argued that the reference is accordingly *ultra vires*. It is, however, not denied that His Excellency the Governor is the chief executive of the Government under the Government of India Act of 1935. There is no warrant for assuming that before the Government Order was issued, the Government, that is to say, His Excellency the Governor and

the Ministers did not go into the question before the decision to refer was taken up. All official acts are presumed to have been done in the proper manner. The argument advanced on the side of the workers is highly technical and there is no force in it. In paragraph 1 of the Government Order it is clearly stated that the *Government* accepted the recommendation of the Commissioner of Labour that the dispute in this case should be referred for adjudication and it is the *Government* that directed the dispute to be referred to the Tribunal under section 10 (1) (*c*) of the Act. *In pursuance of the said decision by the Government* to direct a reference, His Excellency the Governor, as the chief *executive* authority of the Government, has issued the notification comprising paragraph 2 of the Government Order. *I hold that the order of reference of adjudication in this case is legal and intra vires.*

26. *Issue* 6.—This is another technical objection raised on behalf of the beedi managements based on section 10 of the Act. It was pointed out that an industrial dispute must *actually* exist or must be apprehended before a reference for adjudication is ordered and that *such dispute alone* could be referred for adjudication. The argument is that the Government Order does not mention or recite anywhere what the dispute is that has arisen and what exactly the dispute is which is referred for adjudication and that the Government Order is thus vague and indefinite. The objection raised is altogether devoid of merits. Having regard to the words in section 10, one could expect specification of the nature of the dispute. The learned vakil stated that, if the Government Order does not disclose the nature of the dispute, the Tribunal need not take the trouble of investigating what the dispute could have been which called for the action taken by the Government under section 10. The argument is that this Tribunal is *not* a Court of Enquiry, which could be empowered to investigate what are all the matters involved in the controversy between the parties and that the scope of the enquiry before a Tribunal must be confined to *the* dispute that is to say, the dispute *specified* by the Government and that as the Government has not chosen to state in *express terms* the point in dispute between the parties, the Tribunal has nothing to adjudicate upon and should report to the Government accordingly.

27. If I should agree with the learned vakil for the managements and make such a report to the Government, the Government can issue another Government Order stating the particulars of the dispute and direct this Tribunal to adjudicate upon that dispute. This will only result in waste of public time; and the managements will have to appear at the next enquiry once again, the Tribunal will have to cover the same ground in the fresh enquiry. *This is only technicality with a vengeance.*

28. The Government have forwarded to me the letter of the Commissioner of Labur recommending reference for adjudication. I have marked that letter as Court Exhibit III. The concluding sentence of the letter runs thus: "I request that the Government

may be pleased to refer the *question of wages* of the beedi workers in Tinnevelly district to the Industrial Tribunal, Madura at Tinnevelly for adjudication." In the first paragraph of this letter, he has stated that, on the representation of the beedi workers, he suggested to the managements of *beedi factories* that an increase of 25 per cent in the wages might be allowed as recommended by Dr. B. V. Narayanaswami Nayudu as Court of Enquiry and that they pleaded inability to do so. The Commissioner of Labour has made it clear that it was the *only* question which called for adjudication by the Tribunal. It is on the basis of this recommendation by the Commissioner of Labour that the Government have directed adjudication by this Tribunal. If that letter and the Government Order are read together, it would be clear that the dispute related *to the wages* of the beedi workers and that *such* dispute has been referred for adjudication. I do not agree with the view of the vakil for the managements that the Government Order alone should be looked into and not the recommendation of the Commissioner of Labour which formed the basis of the Government Order for ascertaining what the dispute in this case is. As I stated already, if I should be inclined to be as technical as the vakil for the managements, it will only result in loss or public time and money without any corresponding advantage either of the parties to the dispute and I may add that it would only put them to further trouble, annoyance and expense. My finding on this issue is that, if the Government Order and the letter of the Labour Commissioner are read together, there is no vagueness or indefiniteness about the matter in dispute between the parties. The issue is found accordingly.

29. *Issue* 7.—This is the main issue in this case and it relates to the question of wages. The plea of the proprietors of beedi factories and beedi merchants is that, since the war began, the wages have been increased from time to time and that the workers are now getting *more than double* the pre-war rates. Paragraph 11 of the objection statement filed by the proprietors of beedi factories in Tinnevelly Town and Junction, mentions the old and new rates; before the war, the rates were 9 annas for small beedies and 10 annas for big beedies; now the rates are Rs. 1–6–0 and Rs. 1–7–0 or Rs. 1–8–0. It was also stated that, though their margin of profits could not permit them to pay these high rates, they are paying such rates to avoid strikes and troubles. They have mentioned the various factors which are contributing to their detriment, chief among them being increase in inland excise duty, increase in duty by the Ceylon Government for the beedies imported by these factories into Ceylon, which is their sole market, consequent reduction of exports of their beedies to Ceylon, resulting in excess of stock being left in their hands. That these disadvantages exist was not seriously disputed by the workers, though it was stressed that the exact amount of increase of duty in India and Ceylon has not been proved by the best evidence.

30. Dr. B. V. N. Nayudu, in his report as Court of Enquiry into the labour conditions of Beedi Industry, has elaborately dealt with all the points which fall to be considered in determining the reasonable wages, that is to say rates which will not work hardship either to the capitalists or to the labour. Paragraphs 81 to 98 deal with the question of wages. The vakils for both the parties read various passages including paragraphs 81 to 88. In paragraph 88, Dr. B. V. N. Nayudu says that instead of a uniform minimum rate of wages for the province local minima are better under the prevailing conditions and the enforcement of these local minima will induce re-organization and re-adjustment in the industry which will pave the way for final standarization of wages in about three to five years. Since I have already found that there was no legal evidence of any dispute anywhere in this district except with regard to the workers and employers in Tinnevelly Town and Junction, *the wages I am going to fix shall relate only to the factories within the municipal limits of Tinnevelly inclusive of the Five Flower Factory*.

31. No doubt the beedi manufacturers are not able to get as much profit as they used to get during the period of the war. On the 7th morning, I inspected all the five factories within the municipal limits. *The five Flower Company*, which had a factory within the municipal limits has, after the enquiry commenced, *been shifted to Melapalayam* which is outside the municipal limits. I did not visit that factory as the notice could not be served on the proprietor. From the enquiries I made of the managements on the *five factories* in the municipal area, I learnt that they are making a profit of at least 3 annas per 1,000 beedies even now. I have recorded in my notes of inspection all the particulars gathered. The manufacturers cannot expect to make large profits always; but the workers must have a living wage. If the proprietor of any of these factories is not able to pay his workers the wage I am fixing now, he can close down the factory *with permission*. Some of them have already reduced the number of workers.

32. Taking into consideration every relevant factor found discussed in paragraph 88 of Dr. B. V. Narayanaswami Nayudu's report, I direct that the following scale of wages be adopted :—

(1) The existing wage rates in the said six factories for 1,000 beedies of the several grades shall be increased by 30 per cent (thirty per cent).

NOTE.—I am allowing 30 per cent increase in view of the fact that I am not allowing bonus; and the cost of living index has risen about 300 points.

(2) Workers who have continuously worked in the respective factories (though on piece-rates) from 1st January 1947 to 1st July 1948 shall be given work for 23 days in a month giving each day a minimum work of rolling 750 beedies failing which, such workers

must be paid for each day of involuntary unemployment, wages for making 500 *satha* or 6 oz. beedies.

(3) All the male workers in the said factories shall have the increase in their existing salary with effect from 1st July 1948.

32-A. Strictly speaking the questions covered by issues 8, 9 and 10 cannot be gone into.

33. *Issue* 8.—From the evidence on record and on the enquiry made by me at the time of the local inspection on the 7th morning, I find that the workers are not paid wages by the month or the day but they are all only piece-rate workers; they are paid at certain rates per 1,000 beedis. There is a difference in rate corresponding to the difference in size and length of the beedies. There are 10 oz. beedies, 8 oz. beedies and 6 oz. beedies. The 6 oz. beedies are known as sadha beedies. The workers are not bound to work on all the days when the factories are open. They are also not required to work for any specified number of hours. They can stop with working for 8 hours or even for less number of hours. They are only piece-rated workers. No leave application is required for absence and no permission to stay away is required. Such of the workers who care to earn more can turn out more work than those who have no such desire and can work for all the days in a month. From the extract filed it is seen that workers' earnings in a month range from Rs. 50 or 60 to Rs. 109. Workers are *not* compelled to work for 11 hours by the employers as alleged. It is only the desire of the workers to earn more that make them sit for long hours. Of course, squatting on the floor for a number of hours in an atmosphere saturated with the smell of tobacco is a strain on the muscle and nerves and it is not conductive to health. But the nature of the work is such. Of course, it is possible for such proprietors to minimize the inconvenience felt by the workers. As the workers are practically casual labourers with no restrictions and paid at piece-rates, it will be difficult to introduce the system of bonus or dearness allowance. The system can be introduced only in large factories which employ a large contingent of *permanent* workers paid by the month or paid by the day. I have increased the wages sufficiently as in my view they need not be allowed either dearness allowance or bonus. My finding is that the beedi workers in Tinnevelly municipal area are not entitled to dearness allowance or bonus.

34. *Issue* 9.—It is beyond the competence of this Tribunal to extend the application of the provisions of the Factory Act to beedi factories. The issue is found accordingly.

35. *Issue* 10.—For the reasons mentioned by me in dealing with issue 8, I hold that the beedi workers of the six factories in Tinnevelly municipal area are not entitled to the benefit or provident fund and gratuity. As regards security of service, the workers and the employers can come to an agreement independent of the Tribunal.

They are now only a casual piece-rate workers. The factories in the municipal area are all very small factories, except Syed Beedi Factory which employs 160 workers. The Star Company has got only 14 workers. Kamala Factory has got only 5 workers. It will be too much to expect the proprietors of these factories to open canteens or provide for medical aid, contribute for provident fund and also introduce a scheme of gratuity. I do not, therefore, give any directions with regards to these demands.

36. I inspected all the five urban beedi factories this morning In "Star" factory the workers are sitting in two open stalls in the High Road, Tinnevelly Junction. There is no privy for the use of the workers. The proprietor pointed out a choultry on the other side of the road just opposite where there is a latrine and a well and he added that these workers are allowed a free use of them The stalls are rented by the proprietors. It will be impossible for him to provide a latrine or dig a well. Of course, water is kept in mud pots and a tumbler for each pot is provided in this factory as in all the other factories. All these factories are well ventilated and well-lighted. In Syed Factory and A.J. Beedi Factory, I found electric lights in the workshed. Out of the three sheds in the latter, two have only mud flooring, the manager represented to me that they were making arrangements to get cement for flooring and that it would be possible to do the flooring within two months at the most. The workers wanted that bamboo mat thattis should be put under the tiled roofing to prevent excessive heat. The manager represented to me that something would be done in this direction.

Before closing this, I wish to make mention of the fact that proper steps should be taken to prevent the exploitation of women labour. Dr. B. V. Narayanaswami Nayudu has made some suggestions with regard to this matter. I fully endorse his opinion, Since the women workers had not been duly represented before me and as there was no legal evidence before me that they have grievances which require to be redressed, I regret my inability to improve their lot.

Order—No. 3173, *Development, dated* 15*th June* 1948.

Whereas the award of the Industrial Tribunal, Madura, in respect of the industrial dispute between the workers and the managements of beedi factories in Tinnevelly district has been received.

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the managements of beedi factories in Tinnevelly district and the workers employed therein and directs that the said award shall come into operation on 15th June 1948, and shall remain in operation for a period of one year.

2. The Commissioner of Labour is requested to send a copy of this Order together with a copy of the award to the managements of the beedi factories and the workers' unions concerned.

(By order of His Excellency the Governor.)

W. R. S. SATHIANATHAN,
Secretary to Government.

XLIII.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

SRI M. VENKATARAMAYYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE EAST INDIA DISTILLERIES AND SUGAR FACTORIES, LTD., NELLIKUPPAM, SOUTH ARCOT DISTRICT.

and

THE WORKERS.

MESSRS. KING & PARTRIDGE, Solicitors—*for the management.*

MR. S. GURUSWAMI, President of the East India Distilleries and Sugar Factories Labour Union, Nellikuppam—*for the Workers.*

Subject—1. *Wages and salaries—Whether adequate.—Held* that minimum wages should not be fixed for one factory in the Province in a competitive industry.

Held that a working class family in Madras consisting of five members require about Rs. 45 to Rs. 50 per mensem as bare minimum, that the dearness allowance in the Company stood at Rs. 28–10–0 and that annas 12 per day was a fair wage.

Held further that there should be some incentive offered to workers to remain in the same institution for long number of years by granting increments.

Awarded revised scales of wages and salary.

Held further that while the labour cost had increased between 1944–47 by 100 per cent, the increase given to covenanted staff was 160 per cent, the increase of expenditure in London office was 250 per cent and increase of Director's Fees, 180 per cent.

Held that the increase in wages recommended was by no means a burden.

Held also that in view of the introduction of prohibition and possibility of rationalization of the industry, the Award should be binding for six months up to end of December 1948.

2. *Whether the present system of calculating dearness allowance should be replaced by annas 3 per unit.—Held* that the company was following a scientific basis for arriving at the cost of living and it was not proper to disturb it. It was for the Government to lay down a uniform policy for payment of dearness allowance for all industrial labour. Demand negatived.

3. *Whether night shift workers should be paid night allowance of $1\frac{1}{2}$ times.—Held* that all night shifter workers should be paid 25 per cent extra for the whole night work and not merely for the hours after midnight.

4. *Contribution to Provident Fund and Gratuity.—Held* no change was called for.

5. *Compensation for involuntary unemployment during non-crushing seasons.—Held* disagreeing with the report of the Sugar Factories Labour Enquiry Committee, that the worker was aware that there was no work for him after crushing season and could not demand any compensation. Claim negatived.

6. *Holidays and leave.—Held* that no increase (on 8 festival holidays and 10 days privilege leave) was called for.

Held that the sick leave of 7 days on full pay and 14 days on half pay allowed to workers recruited before 1st December 1946 should be extended to all classes of workers.

7. *Whether workers who had put in one year service should be made permanent.—Held* that the Company did not say after what period of service the workers would be made permanent, and that there were a number of cases where workers with long service were not made permanent. Ordered that those with one year of continuous service or two years service of broken periods should be made permanent.

8. *Educational and medical facilities.—Held* that provisions for education of workers' children were not satisfactory. Matter left to the Government and management.

9. *Bonus.—Held* that the clerical staff and labour should be paid bonus on the same footing.

Held that 20 per cent bonus declared was adequate. *Held* that dearness allowance was paid not to enable savings but to compensate for the increase in cost of living and that dearness allowance should not be included in calculating bonus.

10. *Representation of the Union at the enquiries.—Held* that Standing Orders provide for the worker taking a friend with him during any enquiry and provision was wide enough to allow a Union representative to attend.

11. *Housing.—Held* that steps should be taken to provide housing for industrial labour.

12. *Promotions.*—Promotion should depend on seniority and service. Instances of injustice might be brought to the notice of the Management by the Union.

13. *Contract labour.*—Recommended discontinuance of the practice within one year.

14. *Whether the workers were precluded by their agreement, dated 25th February 1947, from raising any demands.*—*Held* that the workers were not precluded from raising the demand as all the formalities of a contract had not been complied with.

G.O. Ms. No, 3184, Development, dated 15th June 1948.

[Labour—Disputes—Dispute between the workers and management of the East India Distilleries and Sugar Factories, Limited, Nellikuppam—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers :—

(1)

G.O. Ms. No. 560, Development, dated 5th February 1948.

(2)

From the Industrial Tribunal, Madras, dated 31st May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT :

SRI M. VENKATARAMAIYA, B.A., B.L.

INDUSTRIAL DISPUTE NO. 4 OF 1948.

[In the matter of the Industrial dispute between the workers and management of the East India Distilleries and Sugar Factories, Limited, Nellikuppam, South Arcot district.]

AWARD.

The above dispute was referred to me for adjudication in G.O. Ms. No. 560, Development, dated the 5th February 1948.

2. The management was represented by Messrs. King and Partridge, Solicitors, Madras, and the workers by Mr. S. Guruswami, President of the East India Distilleries and Sugar Factories Labour Union, Nellikuppam.

3. The management in this case is the East India Distilleries and Sugar Factories, Limited, Nellikuppam, for which the Managing Agents are Messrs. Parry & Co., Ltd., Madras. The beginnings of this factory go back to the first quarter of the 19th century and many changes have taken place since then. In its present re-modelled condition on modern lines the factory is working since 1933. It employs 2,000 hands of whom about 600 are laid

off for nearly half the year. The crushing of canes and the manufacture of sugar is a seasonal operation and therefore there is no work which can be given to the entire body of workers for the whole year. The office attached to the factory consists of a large number of clerks who are described as 'writers' and clerks—Grade II, III, V representing the annual increments which they are getting. There is also a works staff, Grade II, III, V and X.

4. Since a considerable length of time there is a Labour Union consisting of the workers of the factory whose president at present is Mr. S. Guruswami, who is also the General Secretary of the All-India Railway Men's Federation. In 1946 there were points of difference between the Management and the Union and an agreement was arrival at, the terms of which are embodied in Schedule IV at page 67 of the written statement of the Management. This was on 25th February 1947. It looks as if this agreement was almost at once repudiated by the Union and I think this agreement is not being respected. This is one of the points raised by the Management that in consequence of a clause in this agreement that the demands about which the agreement was arrived at shall not be the subject-matter of any further demand and there shall be no disturbance of the peaceful conditions of labour in Nellikuppam in respect of these demands before 1st July 1948. This forms the subject-matter of an issue.

Issue No. I.—Whether the salaries and wages now being paid to workers in the factory and to the clerical and supervisory staff are inadequate.

5. The factory employees have been classified into certain groups and the management has furnished me with a list of wages obtaining in respect of each such group and also the number of categories in each such group. (Vide Exhibit 1.) It is observed in that that they refer to unskilled workers and nowhere have they mentioned of skilled workmen. Before me it was represented that there is no skilled hand at all but that is obviously wrong. The expressions the management would like to use, viz., "experienced and inexperienced are only a distinction without difference." I do not believe that CO_2 foreman, or the pan man and even the painter are unskilled people. There are blacksmiths, tinsmiths, welders, turners, fitters, etc., and all these men are definitely skilled men. But I need not bother myself about considering this question as I propose to adopt Exhibit I and the classification made therein.

6. The first question which has to be considered is what shall be the minimum wage. Now as before, I have been thinking that 14 annas a day ought to be the minimum. No worker should be paid less than that but the minimum varies from industry to industry and the sugar industry should be no exception ordinarily. But my difficulty was that the present enquiry relates only to one sugar factory in the Province and sugar is a competitive industry. Exhibit II is a comparative statement of what is earned by a worker

in different sugar factories in the Province. I take it that it gives a correct picture of the conditions of labour but if the figures given in it are wrong my remarks will be irrelevant. It is recorded in that statement that in Bobbili the minimum wage is Rs. 8–12–0 and in Hospet Rs. 9–12–0, in Ettikuppaka Rs. 8 and Vuyyur Rs. 13. In all these the number of days for which payment is made is 26 whereas in the Nellikuppam factory the workers get payment for 28 days. For some reason or other it has been the practice in the Nellikuppam factory to pay the workers for all the days that they work and in addition for two Sundays. If therefore I raise the minimum wage of a worker in the factory to 11 annas as I intended to do it would be placing the Nellikuppam Sugar Factory at a commercial disadvantage. Secondly the minimum wage at present obtaining in this factory is 9 annas as is seen from Exhibit I. In passing I may observe that there are women who are paid six annas a day. When this was brought to the notice of the representatives of the management who appeared before me they stated that I may fix any wage for them as they propose to discontinue the employment of women. There should be no distinction between the wages paid to a man and a woman. So from 9 annas to 14 annas is a big jump.

7. Another consideration for me to adopt the suggested scales is that wage has to be considered along with the dearness allowance paid. A working class family nowadays consisting approximately of five members has been held to require in Madras Province something between Rs 45 and Rs. 50 a month as a bare minimum. Fourteen annas a day would be just a living wage if the dearness allowance is about Rs. 25, making a total of Rs. 47. The dearness allowance which the workers in this factory got was Rs. 28–10–0 in April 1948 and the dearness allowance has been almost the same for the last three or four months. Therefore also with a minimum of 12 annas the income of a worker will be in the neighbourhood of Rs. 48 to Rs 49 which will meet with the just demands of labour. In the case of skilled men what I have adopted is in accordance with the other industries taking into consideration the dearness allowance also.

8. On the one hand the management has been saying that they cannot bear any heavy burden on the labour cost and that production is going down and competition is likely to come as soon as the slump sets in and that the realization from the sales is not so high as to warrant any increase in the wages. On the other hand the Union has been representing that the company has made enormous profits.

9. Two important points have to be first indicated. A not insignificant part of the business done by this factory is in distilleries. From October of this year with the introduction of prohibition throughout the Province this part of the business will have to be closed down. Distillery is a subsidiary business and even if, as Mr. Guruswami suggests, it may be converted into a manufacture of power alcohol, I do not expect that the results will be so attractive

as a distillery in the matter of profit. Another factor which should be noticed is that the company has set about introducing rationalization in the factory. This rationalization scheme is not unconnected with the changes which may be introduced in the distillery. With rationalization a certain amount of retrenchment is inevitable but I have been assured that there will be no retrenchment of hands when the scheme is completed. At the same time retrenchment would necessitate the reduction of certain hands in certain sections of the factory. Less number of men will be enough in a certain operation as the machine will hereafter do much of the work which the men are now doing.

10. In view of all these matters I recommend that this award shall be made binding on the parties only for a period of six months. It will be open to the management no less to the union to revise the wages as well as, if necessary, any other matter relating to the conditions of service. The next crushing season will commence some time about December 1948. Therefore this award may be made valid and binding till the end of December 1948.

11. In class A there is no increment given to anybody. All of them start their career and end on nine annas a day. These are ungraded and unskilled workers. It is true they are on the lowest level of manual labour. Even they must, I fancy, have an incentive to work in the same institution for a large number of years. It is difficult to decide a wage which is adequate in respect of such men. The only criterion which is obvious is that they should have a reasonable amount to lead their life in a decent manner. It is clear that nine annas is ridiculously small for anyone. All these men are working all the time in the factory. I have therefore decided to revise their wage from nine annas to the grade of 12 annas to 14 annas the annual increment being half an anna. Then going to the B class workers they are described as graded unskilled workers, and C and D classes are also similar to them, but the type of work which they do is more responsible. All these start on nine annas as in the A class. Even where workers are designated as unskilled there are different types of men even among the unskilled and therefore higher pay to some is desirable. A man who works in the sun and one who does more arduous work must be paid more than the very ordinary manual worker who carries earth from one place to another. Also men who have knowledge of certain implements or tools or instruments and men who are able to understand what is one inch spanner or to put certain machinery in order or to record metre readings, though they are unskilled, should be paid a little more than what is paid to purely manual labour.

12. After the unskilled come the maistris over the unskilled and maistris who do a little work also besides supervision and maistris over skilled whom the company choose to call " experienced tradesman ". The difficulty will be to fix the salaries of these maistris which should be a little higher than what the workers themselves get. Taking into consideration the several aspects of their work,

I recommend the following wage rates and salaries to the different classes mentioned in Exhibit I :—

SCHEDULE OF WAGES.

Grade.	*Description of employees.*	*Old rates.*	*Recommended scales of wages.*			*Percentage increase.*	*Yearly increment.*
			Minimum.	*Percentage increase.*	*Maximum.*		
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
		RS. A. P.	RS. A.		RS. A.		RS. A. P.
A	Ungraded unskilled general workers	0 9 0	0 12	33·1/3	0 14	55·5	0 0 6
B	Grade unskilled workers	0 9 0 to 0 13 6	0 14	55·5	1 0	39·1	0 0 6
C	Graded workers with limited expenditure	0 9 0 to 0 13 6	0 14	55·5	1 5	55·5	0 0 6
D	Graded workers with more responsible jobs than 'C'	0 10 6 to 0 13 6	1 0	55·5	1 5	55·5	0 1 0
E	Graded workers semi-experienced tradesmen ..	0 11 6 to 1 0 6	1 0	33·1/3	1 6	33·1/3	0 1 0
F	Graded workers experienced tradesmen	0 13 6 to 1 2 6 & 22 8 0 to 32 8 0	1 2	33·1/3 approximately.	1 8	33·1/3 approximately.	0 1 0
G	Maistries over unskilled labour	22 8 0 to 27 8 0	25 0	11·1/9	30 0	9·1/11	0 8 0
H	Maistries and leading hands over unskilled labour.	22 8 0 to 32 8 0	30 0	33·1/3	38 0	17	1 0 0
I	Maistris over experienced tradesmen	26 8 0 to 32 8 0	33 0	24½	45 0	38½	1 0 0
J	Special workers, not included in the graded scheme.	30 0 0 to 60 0 0	40 0	33·1/3	65 0	8·1/3	2 8 0
K	Works staff, supervisors and technicians	40 0 0 to 190 0 0	40 0	No change.	190 0	No change.	

N.B.—Only senior grade maistris getting over Rs. 40 shall be placed to supervise the work of D, E and F grades.

13. With regard to clerks and other staff, although Mr. Davis mentioned that after the Madras adjudication he has adopted the same for the Nellikuppam factory also, I find that the clerks are started on Rs. 40 and not on Rs. 45 and in the case of writers their probationary salaries are given as Rs. 17–8–0. I indicate below the recommendations I make in respect of the clerical staff, works staff and typists :—

	Proba-tionary salary.	*Salary.*
	RS.	RS.
Clerical staff—		
Writers and cane staff	20	25—2—45.
Pre-grade	..	35 (No change).
Grade II	35	45—2—75.
Grade III	..	51—3—84 (No change).
Grade V	..	70—5—120 (No change).
Copy typists—		
Copy typists	35	40—2—68 (No change).
"S" Grade	40	45—3—84 (No change).
"SS" Grade	65	70—5—155 (No change).
Watch and ward	..	20 1—27 (No change).
Transport—		
Drivers	..	35—2—45.
Senior drivers	..	45—2—75.
Lower grade ·		
Peons and messengers	..	20—½—25.
Senior peons	..	25—1—35.
Cleaners	..	20—½—25.
Chokras	..	15—½—20 (not to be older than 21 years of age).

14. These revised rates will come into force from 1st June 1948, i.e., their salaries for June 1948 payable in the first week of July. I would like to give an idea how revision may be made.

15. A class workers as per Exhibit I should be given an increment of 1/3 of their present rate. From 1st June 1948 all of them will get 12 annas a day.

16. B, C and D class workers should be given roughly 5/9 increase over what they were getting before. Wherever a man was getting 9 annas he is now to be paid 14 annas and the increase is 5/9 over his old rates. The maximum of Re. 0–13–6 is now raised to Re. 1. So in the higher grades existing incumbents should be given on the average 45 per cent increase. Wherever there is a slight variation that should be adjusted in conformity with reason.

17. E and F class workers get 1/3 increase over their present rates. It will be seen that for E class the lowest wage is Re. 0–15–0, if 1/3 is added, but it is rounded off to Re. 1 so that it may not be less than the lowest pay of a D class worker. Therefore E and F class workers should be given a 1/3 increase. Casual labour may be given an increase of 25 per cent over the existing rates.

18. Difficulty arose as to what should be given to the maistris. With regard to G class maistris who supervise the work of A class workers no maistri should get less than Rs. 25 and he was still now

getting Rs. 22-8-0. The increase in the case of maistris in the G class shall be in that proportion, viz., 11-1/9 per cent for junior and 9-1/11 per cent for those in senior grades. Similarly about classes H and I. The K class workers have not been given any increase because their salaries are adequate. Towards the end of the arguments in the case I was informed that the pan men would be given an increase of Rs. 5 by the management with immediate effect. That would mean Rs. 37-8-0 to Rs. 65. I have decided to recommend Rs. 40 to Rs. 65 for them, and these belong to J class.

19. One other point which may be mentioned is about the condition of the sugar industry and whether the increase will be a heavy burden on it. I need not spend much time over it as everyone knows that the sugar industry is an exceedingly prosperous one at the present time. The price of sugar is soaring so high that every one feels convinced about it. Apart from these general observations I have before me a statement furnished by the management themselves to show the manufacturing cost and profits (Exhibit III). The profits from other items manufactured by the factory are also there, and it is no small amount. Only as regards the cost of labour I wish to draw particular attention to one tabular statement contained in Exhibit III. Whereas in 1944 the cost of labour and clerical and works staff in Nellikuppam was Rs. 8,84,000 it is to-day Rs. 16,05,000. The percentage of increase from 1944 to 1947 is 100. The increase in the amount paid to the covenanted staff during the corresponding period is 160 per cent and what is more, the London office expenditure of this company which was Rs. 40,500 in 1944 is now Rs. 1,42,000 in 1947—an increase of 250 per cent. The Directors' fees have increased to Rs. 1,38,000 in 1947—180 per cent over the 1944 figure. In the face of these figures it is needless to discuss the present subject any longer. The London office expenses, the Directors' fees and the covenanted staff's salaries should be reduced to the same 100 per cent level of increase as the clerical and labour staff's salaries in order to make them contented. The increase, therefore, that I have recommended and that too for six months only, is by no means a burden on such a prosperous company as this. The increased price which they are paying for sugarcane is not particularly a burden on the company as they have thrown that burden on the consumer.

Issue No. II.—Whether the present method of fixing dearness allowance should be replaced by the rate of three annas per point and it should be the same for all classes of employees.

20. At present the dearness allowance paid to the clerks is at 3 annas per point on the cost of living index. It is the same in Madras. The dearness allowance paid to the labour, however, is slightly different. From 108 to 112 points one rupee is allowed and thereafter at two annas a point on the cost of living index

prepared for Nellikuppam. The company takes the Madras City indices for the several groups such as food, fuel and lighting, house-rent, etc. For instance whereas in Madras food is given 58 per cent weightage in calculating the index, the Nellikuppam percentage is 75. House-rent which is 11·5 in Madras is given 2·9 in Nellikuppam. *The result of this has been that the Nellikuppam cost of living index is always slightly higher than Madras City index.* As long as the company is proceeding on some scientific basis in arriving at the cost of living index, I do not think it is proper to disturb it. It is for the Government to lay down a policy for the payment of dearness allowance for all industrial labour common to all or variable according to different places. Nellikuppam is on the countryside and yet when the company has fixed a higher rate of cost of living index by taking into account the conditions of living in that locality one cannot pronounce to be wrong. With regard to the clerks there is no need to make a differentiation between a clerk in Madras and a clerk in Nellikuppam. The clerks in both the places are liable for transfer from one place to the other. After the adjudication relating to the same management in the beginning of 1947, I understand the same scales of dearness allowance have been introduced in Nellikuppam also. Uniformity, therefore, at least to that small extent is desirable. I accordingly hold that the dearness allowance at present being paid to the clerical staff as well as to the labour force in Nellikuppam is adequate and should be maintained. No change is therefore necessary.

Issue No. III.—Whether night shift work should be paid by night shift allowance of $1\frac{1}{2}$ the daily rate.

21. The argument that has been advanced by the management is that there is no such thing as a night shift worker. I have been informed that in England there are only shift workers and shift workers are paid a little more than ordinary workers. Shift workers are those who by rotation have got to do the work during night also. Whatever may be the conditions in England, in India we are accustomed to a different interpretation. There is no such man as shift worker contrasted from an ordinary worker.

22. In other fields of industry a man who works during night is paid extra allowance. In railways if a man works after 11 p.m. he gets extra allowance. In the textile industry the worker is paid one and one-fourth for working during nights. *I, therefore, hold that the night shift workers shall be paid 25 per cent extra.* A worker is a night shift worker if his period of work takes him to work beyond midnight, i.e., 12 o'clock. I would like to make it clear that the night shift allowance should be paid not per hour but for the whole shift. In other words if the night shift that is prescribed requires that the man should be on duty after 12 o'clock midnight, *he should be paid one and one-fourth wages for the*

whole shift and not for the one or two hours only that he has to work after midnight.

Issue No. IV.—Whether the rules relating to gratuity and provident fund should be modified by allowing contribution to be made from dearness allowance also.

23. The demand on this point is somewhat obscurely worded. The demand is thus stated: "Retirement bonus should be based on a contribution from the company at the rate of two months' earnings for each year of service. The earnings should include dearness allowance."

24. There is a *provident fund* to which the contribution made is 10 *per cent and the company makes a similar contribution.* With regard to those who had no provident fund and who have put in long service it is represented that "that the company agree to calculate gratuity in respect of any period a worker had not been a member of the provident fund in such a manner that the worker would obtain the same benefit as if he had been a member of the provident fund throughout." This rule is quite salutary and gives benefit for the retiring man which is by no means inadequate. From the schedule which the management has filed it will be seen that non-member of the provident fund has also been given the benefit. If in any case the company has not kept its word, that is, did not give that they have agreed to give, it is for the union to take up the cause of the worker and get redress. As far as the rules go concerning provident fund and retirement benefits they are sufficient to satisfy the ends of justice. In many other concerns the contribution is 6¼ per cent and when the contribution is 10 per cent as in this case it cannot be said to be small.

Issue No. V.—Whether company should make provision for payment of compensation to those who do not have work for the whole year but only for the crushing season.

25. This is virtually an unemployment benefit. It is urged that the men who are thrown out of employment after the crushing season is over should be given compensation and my attention is drawn to the report of Sugar Factories Labour Enquiry Committee (Bhatia Committee) at page 72 of Indian Sugar Industry—1946–47, Annual, where it is said that compensation should be paid at the rate of 50 per cent to the skilled, 25 per cent to the semi-skilled and 10 per cent to the unskilled. I must say I am not in agreement with the views contained in that report. This is an agricultural country and Nellikuppam is in the midst of agricultural tract and paying compensation to such people as these will have only one effect, namely, to make them lazy, and moreover I cannot see any principle in this. The man comes to work knowing that it is the crushing season for sugarcane and the company does not get any work out of him, in fact, cannot give him any work after the crushing season is over. Further it is

not on account of any policy of retrenchment or any other act of the management that the men are thrown out of employment. Consequently I see no reason in this demand for compensation which is therefore negatived.

Issue No. VI.—What is the reasonable amount of leave which should be allowed as (i) privilege leave, (ii) sick leave and (iii) holidays and on what terms?

26. One of the important points of dispute which culminated in the agreement of 25th February 1947, was the question of leave. The agreement provides that the company should grant to all workers on its A roll on 30th November 1946 and to workers on the B rolls, eight festival holidays (details given) and ten days' *privilege leave*. The ten days' leave they further agreed to give piecemeal so long as Government rules permitted it. Government has taken the view which in my opinion is not in conformity with the spirit of the Holidays With Pay Act of 1945. The Act says that the ten days, should be consecutive, continuous and the idea behind this legislation was to enable the worker to have a holiday, i.e., to be away from work for ten days at a stretch, but it appears the Government has permitted the splitting up of these ten days. If the Government should prohibit the piecemeal taking of these ten days, it will then be time to consider whether a few days extra should be given for any urgent needs. The agreement was so recent as 1947 and the men are getting the privilege leave for two days and three days according to their needs, making a total of ten days in the year. *I am therefore not inclined to increase the number of days.* If however the Government should rule that the ten days in one stretch should be given to every worker after a period of service of twelve months, then I would suggest the giving of five days more as privilege leave. This matter may be considered at the end of six months—the period I am fixing for a reconsideration of the wages question.

27. The workers are allowed *seven days of sick leave* with full pay or fourteen days with half pay but this is not allowed to regular workers recruited after 1st December 1946. The latter are given sick leave only on loss of pay. I see no reason for this differentiation between the two classes of workers, those recruited before and after 1st December 1946. *I recommend that the sick leave provision referred to above shall be made applicable to all classes of workers.* If the medical certificate shows that a man requires a longer treatment either free treatment or fourteen days' leave on half pay may be given.

Issue No. VII.—Whether all those who have put in one year service should be given the privileges of a permanent employee.

28. In their written statement the management have stated that after a period of satisfactory service the workers are enrolled in the regular roll or the regular seasonal roll. We are concerned

with the regular roll and no period is mentioned in the statement of the management. I have, however, been furnished with a number of cases where persons who have put in four years of service are still treated as casual labour. This is not satisfactory, and most of them are working in the workshop. I shall refer here only to a few so that the company may know what I mean. Thambuswamy, fitter, has put in 4 years service, Anandam, 4 years, Ramanujam, 3½ years, Athi Naidu, 3½ years, blacksmith Sabapathy, 3½ years. Cases like these seem to be fairly large. Therefore, the union's demand is that all those who have put in one year's service should be made permanent. At the same time I have been informed that the services of some men are terminated after one or two years of service to create a break in the continuity of service. I recommend that those who have put in a continuous service of one year or broken periods making a total of two years shall be taken on the permanent roll.

Issue No. VIII.—Whether the company is bound to provide educational facilities for employees' children and whether the company is bound to provide more than what it has done for giving medical aid to the employees.

29. On the question of education of the children of the factory workers there is a huge literature containing different types of recommendation by public bodies and social workers. What is being done by this company is a grant of Rs. 1,000 to the Danish Mission Society at Pattambakkam and another grant of Rs. 1,000 to the Danish Mission Secondary School at Nellikuppam. These grants bear the stamp of a donation to the Mission and not to the workers' children and therefore it cannot be said that they are giving Rs. 2,000 for the education of the children, and the schools are there not for only the children of the workers but for all. It is said that the children of the workers are supplied with books, slates and pencils, but it is not stated that they are given free. Another token of the company's interest in the education of the children is evinced by a clause in the agreement of the 25th February 1947 already referred to which provide that *the company should endow a scholarship for which they would give Rs.* 2,000. Nothing has been done in this direction. In other words the agreement stands on paper and has not taken actual shape. The result of the foregoing discussion of the management's case is that the management has not done anything at all to promote the education of the children. I am not in a position to decide what kind of educational facilities I should make the company to give. Much of the labour trouble is due to the fact that the labour is uneducated. Not until the workers in the factories and their children are well educated will they be in a position to understand what is good for them, how far any demand of theirs should go and no farther, and the development of character which is an essential ingredient in the existence of good relations between the

employer and the employee. Things are merely drifting in the country without any tangible and responsible measures taken to give a satisfactory kind of education to the children of the workers in the factories. If the Rs. 4,000 (1,000 plus 1,000 plus 2,000) referred to in the management's statement is immediately set apart and every promising child is given a scholarship that will go a great way to show that the interest of the management in the education of the children is genuine. Until any such tangible step is taken all I can say is that nothing is being done and I recommend that the company should strive their utmost and the Government should compel the company to do something for the sake of the workers' children. One step will be to have a school with efficient teachers in the locality where the employees reside. Co-operation of the Government, the company and the social workers is needed for the purpose. I leave it at that.

Issue No. IX.—Whether the bonus should be on the same basis for all categories of employees and how is it to be determined, whether in calculating the amount of bonus, dearness allowance should also be taken into account.

30. The union demands that the method of paying bonus should be the same for the clerical staff and for the workers in the factory. The company agreed to this in the agreement of 25th February 1947 but they have also taken care to say that that was only for the purpose of conciliation and that they would not give effect to it after 1st July 1948 but would reconsider the question. I do not know why there is this differentiation between these two classes of employees. Bonus is paid on account of the profits earned and the profits have been earned not merely with the capital invested by the management but also by the labour which the workers gave in the production of the manufactured product, viz., sugar or lozenges or CO2, or arrack, etc. Labour is not a small factor which can be eliminated in the realization of profits. The salary or wage which has been paid to the labour is for the work which they have done no doubt, but the value of the labour must be valued at the money which they have been paid. Therefore if a man who has invested a capital Rs. 10,000 has obtained a net profit of say Rs. 1,000 and he declares a dividend which he distributes to the shareholders, the labour is entitled to ask that the labour's share of the investment should also be given to them. What that share should be is a matter of great controversy at the present moment. The union in this case demands that 25 per cent of the profits should be set apart for the labour. As at present advised I do not think that I can lay down that 25 per cent should be set apart. The view I have held in the past will hold good in this case also, viz., that when a dividend is declared for the benefit of the shareholders, the same percentage should be given to the workers *pro rata* on the wages which they earned in the year. It is represented to me that 20 per cent is the bonus given this year and I should say that it is

not low or unreasonable. Now when the workers are the people who have contributed to the production of the manufactured articles out of which the company has made a profit and the clerks are those who only maintained accounts and carried on correspondence the absolute want of reason in denying to the workers the higher rate of bonus which the company is prepared to pay to the clerks is manifest. If at all there should be any differentiation between these two classes of workers for the purpose of payment of bonus, preference should be given to the workers. But all they claim is that they should be put on the same footing as the clerks in the matter of payment of bonus. Their claim is quite reasonable and I therefore hold that both the clerks and the labour should be paid on the same footing.

31. Another point which has been raised is in calculating the amount of bonus not only the wages earned but also the dearness allowance paid should be taken into consideration. That is, if two months' salary or wage is granted as bonus, a man who gets Rs. 30 as wage and Rs. 28 as dearness allowance should be given $2 \times 58 =$ Rs. 116 whereas he is now paid only 2×30 or Rs. 60. I am not in favour of this suggestion. Dearness allowance is given not for the purpose of saving or for the purpose of calculating the bonus at the end of a year. It is intended to compensate the earner for the high cost of things which he has necessarily to buy day after day to keep his family going. Consequently the dearness allowance is a variable thing from month to month in many cases and it is a set off against the rise in the cost chiefly of foodstuffs. Therefore there is no reason whatsoever in the demand that in calculating bonus dearness allowance should also be included.

Issue No. X.—Whether the standing orders should provide for an employee to send as his representative, in an enquiry against him, a person connected with the union.

32. At present there is a rule that when an enquiry is made against the conduct of an employee, he can take with him any other man to represent his case. The company has not said that the representative shall not be a person connected with the union. Therefore the rules are sufficiently wide to allow an aggrieved employee to take an officer of the union to represent his case to the management at the time of any enquiry.

Issue No XI.—Whether the company is bound to provide housing facilities to their employees or is it the function of the State.

33. The demand for houses for the workers is another point which has been thrashed thread-bare by several pronouncements by the Provincial Governments, the Government of India, public bodies and social workers. I am in entire agreement with the view that steps should be taken immediately to provide houses for

all industrial labour. From the latest communique issued by the Government of India, it is acknowledged that providing houses should be by joint efforts of the management, labour and the Government concerned. The labour's contribution can only be payment of rent. All I can do is to repeat what I have said in several other awards of mine that early steps should be taken by the Government and the managements to secure housing accommodation for the workers in the Nellikuppam factory. Although the company says that they accept no liability to build houses they must now realize it is one of their duties but in discharging such duties they can seek the assistance of the Government.

34. With regard to medical facilities the company is maintaining a dispensary and there is a creche where a nurse is employed. Health and welfare of the workers is a subject for the State which I find is taking steps by way of legislation to secure for the workers throughout India the necessary facilities. With regard to efficient medical aid I cannot fix any further liability on the company at the present moment by making them to open a hospital.

35. A few more points like promotion and recruitment of labour giving preference to the workers' children have also been raised. The company's rules relating to promotion and recruitment meet the demands of the union but it is too much to say that promotion should depend solely on seniority. Promotion should depend on seniority as well as efficiency. Whenever the union finds that the management has shown either favouritism for or prejudice against a worker, the matter may be taken to the notice of the higher officers of the company who, I am sure, will set right any injustice that is brought to their notice.

36. There is a system of recruiting labour by contract. It is now too late in the day to say that a contractor is necessary to secure labour. In all such cases the labour suffers in more ways than one. It is said that this kind of labour is employed only for unloading the carts and wagons with cane. This can be done by employing casual labour, not necessarily recruited through a contractor. I recommend that contract labour should be discontinued within one year from now.

Issue No. XII.—Whether in view of the agreement, dated 25th February 1947, the workers are precluded from putting forward the demands before 1st July 1948.

37. I have already referred to the agreement, dated 25th February 1947, and said that it was repudiated then and there by the workers. Mr. Guruswami negotiated the terms of the agreement with the officers of the company and obviously he considered that the terms recorded in that agreement were fair and

reasonable but when he put the matter before the union, the union seems to have said that they were not willing to abide by the terms. The authority of Mr. Guruswami to agree to the terms was also questioned. Further in the case of agreements, such as this, there is no sanction behind them such as we find in contracts entered into in other walks of life. There is no res judicata except to the limited extent, of time for which the Government makes the award binding. There seems to be no estoppel even because the workers, are not bound by any statement which one of them was made at a former time. The representative character of the person who either makes a statement or carries on negotiation must first be determined before any agreement is incorporated as binding, and that agreement must be placed before the union and adopted. Of course it is not quite in consonance with the canons of honesty that a union which puts forward one or more individuals to carry on negotiations on their behalf should turn round and say that they are not bound by what those individuals did, but in the absence of regular formalities such as I have indicated, one cannot say that the workers are precluded from putting forward demands notwithstanding the agreement. Moreover the agreement is valid only up to 1st July 1948 and not all the demands now being considered are included in that agreement.

Dated at Madras, this 31st May 1948.

Order—No. 3184, *Development, dated* 15*th June* 1948.

Whereas the award of the Industrial Tribunal, Madras in respect of the industrial dispute between the workers and the management of the East India Distilleries and Sugar Factories, Limited, Nellikuppam, South Arcot district, has been received:

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares the said award shall be binding on the management of East India Distilleries and Sugar Factories, Limited, Nellikuppam, and the workers employed therein and directs that the said award shall come into operation on the 15th June 1948 and shall remain in operation till 31st December 1948.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

XLIV

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

SRI M. VENKATARAMAYYA, B.A., B.L.

[Under the Industrial Disputes Act, 1947.]

IN THE MATTER OF AN INDUSTRIAL DISPUTE.

Between

THE MANAGEMENT OF THE AMERICAN ARCOT MISSION INDUSTRIAL INSTITUTE, KATPADI

and

THE WORKERS.

SRI A. V. GANGADHARA SASTRI, advocate—*for the management.*

MESSRS. P. MOSES, M. GNANAPRAKASAM, M. SWAMINATHAN, M. PONNUSWAMI, and A. LAZARUS—*represented the workers.*

Subject—1. *Whether the workers who work for $8\frac{3}{4}$ hours a day and 48 hours a week entitled to overtime wages when they work $8\frac{3}{4}$ hours a day.*—*Held* that so long as the 48 hours a week was not exceeded there was no objection to working $8\frac{3}{4}$ hours a day.

Held also that the wages fixed for 48 hours could be distributed over $5\frac{1}{2}$ days.

2. *Leave.*—*Held* that 20 days leave, 10 during Christmas and 10 during summer, provided by the Company was adequate.

Held that the sick leave was generous.

Held further—that no one who had been granted leave should be asked to work during the leave period even on payment of extra wages.

3. *Wages*—*Whether should be monthly and whether should be revised.*—*Held* that the system prevailing in the Institute was piece-rates and there was no case for disturbing it.

Awarded scales of wages as per schedule.

Held that the same wages should be paid whatever the nature of wood used.

4. *Whether the dismissal of William Sameul justified.*—*Held* so long as the worker was satisfactory inside factory no employer should enter into the private affairs of an employee. *Held* that the worker should be reinstated.

Held also that the withholding of the Company's contribution of the provident fund was unfair.

5. *Dearness allowance*—*Whether the difference in rates between bachelors and married men should be removed.*—*Held* that the Government also observed similar difference in payment of dearness allowance. Awarded Rs. 10 to bachelors and Rs. 16 to married men as dearness allowance.

6. *Whether certain workers should be reinstated.—Held* that there was nothing unsatisfactory about these men and that they should be reinstated if they reported themselves to duty.

7. *Whether strike and lock-out legal and whether wages should be paid for the period from 8th January 1948 to 25th February* 1948.—*Held* that the management had no right to insist on the workers signing a statement before entering the factory and that the management was wrong in not letting the workers in. *Held* there was a lock-out and not a strike.

Held that such wages the workers would have earned had they worked during the period should be paid to them.

8. *Closure of the institute.—Held* that in view of the threat made during the enquiry that the management would close down the institute it should be ordered that the management should not close down the institute for at least one year.

G.O. Ms. No. 3353, Development, dated 21st June 1948.

[Labour disputes—Dispute between the workers and the management of the American Arcot Mission Industrial Institute, Katpadi—Recommendations of the Industrial Tribunal—Orders passed.]

READ—the following papers:—

(1)

G.O. Ms. No. 759, Development, dated 17th February 1948.

(2)

From the Industrial Tribunal, Madras, dated 28th May 1948.

BEFORE THE INDUSTRIAL TRIBUNAL, MADRAS.

PRESENT:

SRI M. VENKATARAMAYYA, B.A., B.L.

INDUSTRIAL DISPUTE NO. 7 OF 1948.

[In the matter of the industrial dispute between the workers and the management of the American Arcot Mission Industrial Institute, Katpadi, North Arcot district.]

AWARD.

The above dispute was referred to me for adjudication in G.O. Ms. No. 759, Development, dated the 17th February 1948. Messrs. P. Moses, M. Gnanapragasam, M. Swaminathan, M. Ponnuswami and A. Lazarus represented the workers while Sri A. V. Gangadhara Sastri, Advocate, appeared for the management.

2. The dispute which was referred to adjudication arose under the following circumstances. The Industrial Institute, Katpadi, makes furniture in Katpadi and is one of the activities of the American Mission. The work is thus mainly that of carpenters who are trained by the Mission authorities and later on taken as workmen in the Institute. On 11th November 1947, the workers represented to the Manager of the Institute for certain reliefs. They also complained of the stoppage of certain amenities, such as, bonus and allowances for children (Rs. 3) and they wanted an increase in wages. That was practically taken no notice of by the management. Finally the matters came to a climax in the beginning of this year. On 30th December 1947, a meeting was held of the workmen and it was addressed by one Mr. Vasan, said to be a communist, which the workers deny. On hearing that such a meeting was going to be held, Mr. Rottschaffer, the Manager, put up a notice saying " I cannot stop the meeting nor do I plan to ask you whether to go or stay away from the meeting. But I advise you that the Institute is working for the same purpose as all Mission activities." It is said that at the meeting the lecturer used unnecessarily strong language in condemning the missionaries and their activities and in unbecoming language. Exhibit III is said to be extracts from that speech but the workers say it is not correct. After the meeting was over, things went on peacefully until 8th January 1948. On that date at about 10-30 a.m., all the workers were asked to assemble in the office and so they left their work and went there. *There they were told that they should sign a statement* similar to Exhibits IV series. Some complied with it and while things were going on, one man is said to have shouted " Don't sign it " and the rest desisted. *The doors of the factory were closed.* The workers went home and when they returned, they found that their tiffin boxes and other things which were left inside the factory were brought outside *and the factory itself was closed.* They then went home with their things.

3. Next day, when they returned to the factory, Mr. Deveries was standing at the gate and so was Mr. C. John, the foreman. The workers were informed that only those who signed the statement as per Exhibit IV could go inside, otherwise not. As was to be expected, a few signed and went inside but most did not. It appears that some foul matter was thrown inside the houses of three loyal workers on the night on 7th January 1948. I cannot understand what is meant by the expression ' loyal workers ' as until 8th January 1948 there was no reason to differentiate the loyal from the disloyal, and all were of the same mould. Some were adopting the ' go-slow ' policy it seems, but it is difficult to say who adopted that course. In any event those whom the management considered ' loyal ' seem to have suffered the above, viz., throwing of foul matter into their houses. Until this day it is not known who did it. When the management insisted on all

workers signing the statement and they refused, the factory remained closed from 10-30 a.m. on 8th January 1948 until 26th February 1948. Government ordered adjudication in G.O. Ms. No. 759, Development, dated the 17th February 1948, and on the same date prohibited the continuance of the strike and the lock-out.

4. As will presently be seen, most of the points except the question of wage, are very simple for settlement. It is unfortunate that a small incident has unnecessarily been aggravated into a dispute.

5. *Issue No. I.—Whether the workers are working for* 8¾ *hours a day and if so, are they entitled to extra remuneration?*

For some time past the working hours have been 8¾ hours on five of the working days and on Saturdays 4¼, making a total of 48 hours in a week. There is no statutory objection to this but as the workers were working ¾ hour extra every day—more than 8¾ hours, the management was giving 2 annas per rupee of the earnings of a worker every month as extra remuneration. In October 1947, this was said to be an infringement of the law by the Factory Inspector and therefore it was stopped. This matter is not sufficiently clearly made out in the written statement. What happened was this: the hours of work were as stated before 8¾ hours per day. It is unexceptionable so long as the weekly 48 hours is not exceeded. But what actually the management did was to add an extra ¾ hour to this, making it 9½ hours a day for five days and 4¼ hours on Saturday. Therefore, the total number of working hours in a week was 52 hours and the Inspector of Factories rightly objected to this, and the management reverted to the 8¾ hours a day. This happened in October 1947. As a result of this curtailment of work from 9½ hours to 8¾ hours, the workers became disentitled to the extra remuneration of 2 annas per rupee which the management was paying on account of the extra ¾ hour of work over and above the 8¾ hours. The management stopped it but in November 1947, on the application of the workers, they restored the 2 annas per rupee.

6. So far as the hours of work are concerned, it is manifest that the management are within their rights to allot 8¾ hours a day for 5 days and 4¼ hours on Saturday as the weekly period does not exceed 48 hours. In the course of the argument, it was difficult for me to find out what really the workers would desire—whether they wanted to work for only 8 hours a day for all the six days in the week, or work for 8¾ hours a day for 5 days and get half the Saturday and Sunday off. For a long time, they were unable to come to a decision, but upon discussion with them yesterday (27th May 1948), I think the more advantageous scheme of work would be what now obtains, viz., 8¾ hours for five days and 4¼ hours on Saturdays, making a total of 48 hours a week. This shall be adhered to.

7. With regard to payment, it is obvious that the wages are paid for a week of 48 hours work. Actually the men work for 5½ days in the week and the wage rates have been fixed for a week of 48 hours which is divided into 5½ days. If it is to be divided into six days, they will have to work for 8 hours on all the six days and the wage rate per day will proportionately be reduced. The workers have just now understood this point. Therefore, the existing system of payment will continue.

8. *Issue No. II.—Whether the monthly or weekly paid workers are entitled to 5½ days or 6 days wages in a week if they work 8¾ hours a day and total of 48 hours a week.*

By virtue of what has been stated under Issue No. I, the men should be paid 5½ days wages, that is to say, they work for 48 hours and 48 hours work means one week, even though the period of work is actually 5½ days in the week.

9. *Issue No. III.—(a) What is the amount of leave which should be granted as (i) privilege leave, (ii) casual leave and (iii) sick leave with pay?*

(b) Whether the summer and Christmas leave is being given as stated in the management's written statement.

The first part of the issue really does not arise in view of what follow. The system prevailing in this institution is that every worker gets 10 days leave during Christmas and 10 days leave during summer with full pay. *I am also informed that sick leave is usually granted and there is no period limited.* It depends upon the nature of the sickness. With regard to leave during Christmas and summer, the workers also admit that is the case, but they say they are not allowed to enjoy the leave but are compelled to work without extra remuneration. When the management say that leave is being granted and have filed a statement showing what extent of leave has been taken by the workers in the previous year, I cannot see what I can do to the workers. If leave is not granted when they ask for it, the matter should be reported to the Factory Inspector who will do what is necessary. Exhibit I shows the number of days of leave (ordinary) and the number of days of casual leave and sick leave taken by the workers. The total number of days is in some cases 20 days and in one case, Sigamony, 30 and in another case, Arunachala Achari was given 1½ months leave on account of sickness. When the sick leave is thus on a generous scale, I do not want to limit it to a period of 7 days or so which will be to the disadvantage of the worker. *The 20 days leave—10 during Christmas, 10 during the Summer is adequate.*

10. It was mentioned on behalf of the management that even though the leave is allowed to the workers, some of them, however express a desire to work during those days and they are paid wages for that period in addition to the salary during leave. There

is no use in controverting these facts when the records show that many people have taken leave. I think it is better the management does not permit the worker on leave to work at all. All that I propose to do is that 10 days leave during summer and 10 days during Christmas shall be given and no one who is granted leave should be permitted to work during the period of that leave.

11. *Issue No. IV.*—(*a*) *Whether the piece-rate should be replaced by monthly rate for all workers.*

(*b*) *Whether the present rates should be revised. If so, how?*

(*a*) There is a demand that the workers should be paid by the month, i.e., time-rate instead of piece-rate. In the nature of things work in an institute such as this should be on piece-rate system and it has been so ever since its inception. What is done is a man is asked to do a particular item of furniture, say an almirah. For that a wage is fixed. For a unit of almirah, the wage is Rs. 30 at present and it was Rs. 20 formerly. It depends upon the man to finish the almirah in a few days and earn the Rs. 30. But if he takes a month to make it, he will earn only Rs. 30 for the month. It is a good incentive to quick despatch of work to place a man on piece-rate. I loathe to disturb the existing system.

(*b*) There was no revision of the wages for a considerable time. The wages were fixed in 1926 and ever since remained the same until quite recently when an increase was made. The increased rates are shown in the statement filed by the management as Exhibit VII. The increase was from Rs. 8 to Rs. 10, Rs. 5-8-0 to Rs. 8, Rs. 32-8-0 to Rs. 40, Rs. 3-4-0 to Rs. 4-8-0, Rs. 20 to Rs. 25, Rs. 30 to Rs. 37-8-0, Rs. 25 to Rs. 35, Rs. 10 to Rs. 15 and so on. Apparently they take into consideration the nature of the work and fix the rates. *I am unable to see any reason to think that the increases given are low.*

It was mentioned that from October 1947 an increase of 12½ per cent has been given and with the increased wage and dearness allowance there are 8 workers getting between Rs. 30 and Rs. 35, 21 getting between Rs. 55 and 60, 2 getting between Rs. 80 and Rs. 90. The schedule on page 4 of the management's statement gives details. Between Rs. 20 and Rs. 30 is given only to young men who have joined about a year or less ago. The workers' side was not well represented and those who appeared were unable to say whether it is true they had the 12½ per cent increase from October 1947. Yesterday both the parties met before me and the matter has been discussed. No increase of 12½ per cent has been given from October 1947, but when the workers agitated for the restoration of the 2 annas per rupee which the management was giving from April to October 1947, the management continued to pay the 2 annas per rupee on the earnings of every worker during the month. But this has to be regularized. Exhibit VII shows in the first column the wage rate which was prevailing in 1926

and the next column shows the wage rate in existence in the beginning of 1947. The difference between the two represents the total of the increases given between 1926 and 1947. With the 12½ per cent increase which I am now allowing to the wage rate I am of opinion that the workers would be getting a fair deal. The rates to be allowed hereafter will be what is appended to this award.

12. These rates should be strictly adhered to by the management and no deviation should be made either on the ground that junglewood or country wood is being given and not teakwood, etc. Mr. Rottschafer said that they do not use anything other than rosewood or teakwood, and if for any customer country wood is to be used that is no reason why the rate should also be altered for the sake of the customer. Therefore it must be a rule that the rates fixed in the appendix shall be applicable in all cases for the several items of work described therein, *whatever may be the nature of the wood used.* I say this because it was brought to my notice that Rs. 3–4–0 was the 'coolie' fixed for a work while in the schedule the rate was Rs. 3–8–0.

13. Workers have been pressing before me that enormous profits are being made by the management and although generally Katpadi furniture is known to be a costly affair, it is possible, by exporting the finer articles of furniture or art to America, they may be making a good profit. But all this is beside the point for our present purposes because the wage rate is fixed not with reference to profits earned but with reference to the degree of skill which the man has to exhibit in producing the article concerned, and also the arduous nature of the work or otherwise. All these factors have been taken into consideration in arriving at the conclusion in the appendix fixing a fair and reasonable wage.

14. *Issue No. V.—Whether William Samuel was wrongfully dismissed; has he been given his provident fund in full? If not, is deduction justifiable?*

William Samuel is reported to be an efficient worker and he was removed from service and he applied to the Commissioner of Labour, and it is referred for adjudication. In his application he said that he was removed owing to irregular attendance but the management have stated that he was removed because of his bad character. In the statement filed on 14th April 1948 on this subject, it is said that he lapsed into his "old ways of life" and consequently his attendance became irregular. It was revealed at the time of the arguments that his work has been satisfactory, but that a Christian institution like this cannot allow a man of the character of William Samuel to work in the institute. It appears that this man has got a concubine when he has a wife living and he was asked not to have the concubine, and once or twice he represented that he would not have her but he continued to have

relations with her. Before me he represented that his wife has deserted him and the Mission authorities would not obtain for him a divorce and that the pastor asked for a sum of Rs. 200 for getting the divorce and these are his troubles. *I think no employer should enter into matters concerning the private life and it is not within my province to go into these matters.* Whether he is at fault or his wife, so long as his work is satisfactory in the institute, his keeping a concubine is no reason for dismissing him. What is worse, he has produced a receipt for the provident fund amount paid to him, which shows that *he was paid only his contribution and the management's share of the contribution is noted as 'Nil,'* vide *Exhibit VI. This really is unfair.* In view of the above facts, Samuel William should be taken back into service but he will not have any pay until the date of his joining. He must report himself for duty within two weeks from the date of publication of this award.

15. *Issue No. VI.—Whether the distinction between bachelors and married men with regard to rate of dearness allowance should be removed and all paid at equal rate.*

Bachelors are paid Rs. 8 as dearness allowance and the married men are paid Rs. 16. The differentiation between bachelors and married men with regard to payment of dearness allowance exists, even in the dearness allowance paid by Government to certain officers and there is also reason in it. Even Government gave to unmarried officers more than half of what they paid to married officers as dearness allowance. I think it was 10 per cent and 17½ per cent respectively. Whether it should be half of what is paid to married men is a different matter. Here also it may be same as in Government. I recommend that the bachelors should get Rs. 10 and married men Rs. 16.

16. *Issue No. VII.—Whether Arunachalam, Sanjeevi and Vasudevachari should be taken back.*

These three workers shall be permitted to join duty in the institute. It appears that Vasudevachari was asked to produce a medical certificate and he produced it and he was not allowed. Exhibit A is the notice which was put up after the strike and lockout were prohibited. It is dated 24th February 1948. It is mentioned that all the workers who are willing to work might come and the factory was open, but no time-limit was fixed and all of them were asked to join immediately. These three people were in far off villages and on their behalf it is mentioned in the workers' statement at page 2 that some of the men came late "as our communication reached them late." There is nothing particularly unsatisfactory about the conduct or behaviour of these three men and if they report themselves within two weeks from the date of publication of this award they shall be taken back into service. Pay, however, should be paid from the date on which they report themselves for duty.

17. *Issue No. VII.—(a) Whether there was a strike on 8th January 1948 or a lockout. Were they legal?*

(b) Whether the workers should be paid wages during the period from 8th January to 25th February 1948.

In the opening paragraphs of this award the incidents which happened in the first week of January have been mentioned. *It is obvious that it was a lockout and not a strike which happened on the 8th January.* Even Mr. Rottschafer admits that on 8th January 1948 the men were working in the factory until "we called them to office at 10-30 a.m." I have already mentioned that the management wanted them to sign a statement that they would obey the orders and so on as per Exhibit IV and as that was not done they were not allowed inside the factory that afternoon or the next day. Why should the workers be asked to sign such a statement at that particular time? Because somebody threw foul matter into the houses of some workers, the whole body of workers ought not to be punished in this manner. Moreover, why should the management take upon its shoulders the cause of the men whose houses were defiled. Mr. Rottschafer says that the men came back in the afternoon of 8th January 1948 at 1-30 p.m. and they were paid their salary for the previous month and they were in the bigger courtyard the whole afternoon. The next morning the engine stokers did not turn up for work and Mr. Devries was at the gate and asked them to stop and advised them to come to a proper understanding and later Mr. Rottschafer himself went there. He read out Exhibit IV and they refused to give the slip of paper duly signed although Mr. Rottschafer said: "The place is open to you. I invite you to come." But all these words were accompanied by the direction that they should sign the slip of paper. It is clear that the men were under no obligation to sign a statement such as this as demanded by the management and consequently they (the management) were on the wrong in not letting the workers in after they were called off from work at 10-30 a.m. on 8th January 1948. *I therefore hold that it was not a strike but a lockout which happened on 8th January 1948.*

18. The statement which was demanded by the management was to the effect that the workers would implicitly obey the orders of the management. There is no need to sign such a statement because a servant is bound to obey the master's orders. The whole thing seems to have arisen on account of that meeting on the 30th December 1947 which the men attended. If the management did not like that the workmen should attend it they should have plainly told them so. Having permitted them to attend the meeting (by not prohibiting) and putting up notice referred to in the beginning of the award, the management cannot say that their attending the meeting was anything in the nature of a misconduct. In these days of many an adventurer turning up for getting a leadership of labour, the management ought not to become excited

for what the lecturer says. Oftentimes they are irresponsible men who use unnecessarily provoking language. If the attending of such a meeting has led to a deterioration in the work or behaviour of the workers I can understand, but in the present case the workmen were doing the work as usual and without any kind of change in their attitude towards the management. Therefore, I am definitely of opinion that the management were not justified in demanding either an apology or a statement such as is contained in Exhibit IV.

19. It follows that the management which kept out the workers from work should pay wages. They should, therefore, pay the wages which the workers would have earned if they had been on duty from 8th January to 25th February 1948. They being piece-rate workers the amount to be paid to them during the above period should be the average earning which they earned in the previous three months.

20. One other point is mentioned by the workers and that is that not all the workers are permitted to join the provident fund, but only the Christians. *This is a fact until now, but they have informed me that the Hindu workers will also be permitted to contribute to the provident fund in future.* There is no need to make any recommendation on this point.

21. Lastly the management has been saying to the workers and also before me *that they would close down the institute.* This looks more like a threat to the workers that they would lose their jobs, and the management also says that they are not a profit making concern and it is more on a philanthropic motive that the institute is being run. On the other hand, the workers have been saying that the management is making huge profits and in fact they have mentioned that certain articles like the rosewood elephant, which is a work of art, are being sold at exorbitant prices whereas the wage paid is relatively small. There is no doubt that the institute is making profit and that is enough for the present purpose. It should be distinctly understood that the recommendations made herein should not be taken with a feeling of resentment against the workers. The philanthropic motive mentioned before me should be constantly held in view to provide employment to them, to make them better citizens, to make them better Christians if I may say so, and to make them more prosperous, which is the most important matter in these days. So, I should add a recommendation that the management shall not close the institute or deprive the workers of their employment for at least one year from the date of publication of this award.

[Appendix

APPENDIX.

Schedule of rates for different kinds of articles—1946, 1947 and new rates.

Description.	*1946.* RS.	A.	P.	*1947.* RS.	A.	P.	*Proposed.* RS.	A.	P.
Furniture—									
Dresser with long mirror	30	0	0	..			33	12	0
Modern desk	20	0	0	..			22	8	0
Modern sliding chair	8	0	0	10	0	0	11	4	0
Magazine and lamp stand	5	8	0	8	0	0	9	0	0
Ring arm sofa	8	0	0						
Do. chair	6	0	0	30	0	0	33	12	0
	6	0	0						
Dresser, 4 draws with mirror	12	0	0	20	0	0	22	8	0
Jacobine nest of 3 tables	12	0	0	18	0	0	20	4	0
Q.A. sideboard	32	8	0	40	0	0	45	0	0
Armless chair	3	4	0	4	8	0	5	1	0
Arm chair	4	0	0	5	8	0	6	3	0
China cabinet	15	0	0	20	0	0	22	8	0
Dinner wagon	10	0	0	12	8	0	14	1	0
Meat safe	10	0	0	..			11	4	0
Pineapple bed	11	8	0	..			12	15	0
Q.A. sideboard	32	8	0	40	0	0	45	0	0
Sideboard (Conjeeveram)	25	0	0	..			28	2	0
Q.A. chair	3	4	0	4	8	0	5	1	0
Q.A. arm chair	4	4	0	5	8	0	6	3	0
Jacobine dining table	20	0	0	26	0	0	29	4	0
Compactum	38	0	0	50	0	0	56	4	0
Q.A. sofa	12	0	0	..			13	8	0
Q.A. chair	8	0	0	..			9	0	0
Small compactum	32	0	0	40	0	0	45	0	0
Dining table	18	0	0	25	0	0	28	2	0
Nest for four tables	8	0	0	12	0	0	13	8	0
Reclining chair, rosewood	4	8	0	6	0	0	6	12	0
Reclining chair, teakwood	4	0	0	..			4	8	0
Victoria cabinet	15	0	0	20	0	0	22	8	0
Q.A. writing table, 3′ × 2′	8	8	0	12	0	0	13	8	0
P. Sewing cabinet	4	0	0	6	0	0	6	12	0
M. Sewing cabinet	8	0	0	10	0	0	11	4	0
Dresser 24″ H. 3 mirrors three draws and cupboard	14	0	0	20	0	0	22	8	0
Dresser 24″ H. with one mirror	12	0	0	17	8	0	19	11	0
Three-set dining table	40	0	0	..			45	0	0
Six draws dresser with mirror	18	0	0	25	0	0	28	2	0
Five draws dresser with mirror	17	0	0	24	0	0	27	0	0
Reclining sofa chair	7	0	0						
Two reclining sofa	7	0	0	30	0	0	33	12	0
	8	8	0						
Baby cot	8	0	0	12	0	0	13	8	0
Rosewood bed	9	0	0	15	0	0	16	14	0
Jacobine writing desk, 4 legs	18	0	0	22	8	0	25	5	0
Bungalow book case	15	0	0	20	0	0	22	8	0
Folding canvas chair	2	4	0	3	8	0	3	15	0
Jacobine writing desk, 8 legs	20	0	0	25	0	0	28	2	0
Modern dining table	20	0	0	25	0	0	28	2	0
Modern sideboard	30	0	0	37	8	0	42	3	0
Piano stool 3	6	0	0	..			6	12	0
Tilt top table	2	8	0	..			2	13	0
Carving chest	18	0	0	..			20	4	0
Double pedestal desk	25	0	0	35	0	0	39	6	0
Double pedestal desk with cupboard	27	0	0	37	8	0	42	3	0
Single pedestal desk	15	0	0	20	0	0	22	8	0
Cot with wooden bottom	10	0	0	15	0	0	16	14	0
For mattress and curtain poles	10	0	0	15	0	0	16	14	0
Sliding sofa and chairs with pocket	22	0	0	30	0	0	33	12	0
Rosewood catalogue chair	2	4	0	3	8	0	3	15	0

Description.	*1946.*			*1947.*			*Proposed.*		
	RS.	A.	P.	RS.	A.	P.	RS.	A.	P.
Furniture—*cont.*									
Teakwood catalogue chair	2	0	0	3	0	0	3	6	0
Bed with curtain poles	9	0	0		..		10	2	0
Bed with curtain poles and reeper bottom.	12	0	0		..		13	8	0
Teapoy	2	8	0	4	0	0	4	8	0
Unit almirah	20	0	0	30	0	0	33	12	0
Shelf almirah	18	0	0	28	0	0	31	8	0
Hanging almirah	17	0	0	25	0	0	28	2	0
Jacobine chair (armless)	4	0	0	5	8	0	6	3	0
Hakkim rocker	6	0	0	7	8	0	8	7	0
Arm rocker	4	8	0	6	0	0	6	12	0
Swing rocker	3	4	0	4	8	0	5	1	0
Modern low table	2	8	0	4	8	0	5	1	0
Book case, drawerless	12	8	0	17	8	0	19	11	0
Book case with drawers	13	8	0	20	0	0	22	8	0
De Virus end table	7	0	0	9	0	0	10	2	0
China cabinet with ornamental feet	24	0	0	30	0	0	33	12	0
Hall stand	7	0	0	10	0	0	11	4	0
Tailor—									
One bus, complete (21 seats)	12	0	0		..		13	8	0
One lorry (any size)	3	0	0		..		3	6	0
One car seat covers	3	8	0		..		3	15	0
One bus seat covers	2	8	0		..		2	13	0
One car top	4	0	0		...		4	8	0
Carvers—									
Monk table	70	0	0	80	0	0	90	0	0
Full elephant	1	8	0	2	0	0	2	4	0
Relief elephant	1	4	0	1	8	0	1	11	0
Fruit bowl	4	0	0	4	8	0	5	1	0
Collection plate	3	8	0	4	0	0	4	8	0
Three elephant set	7	0	0	8	0	0	9	0	0
Sliding book rack pair	0	10	0	0	12	0	0	13	6
P. and E. table book rack	1	0	0	1	4	0	1	6	6
Jacobine legs per foot	0	5	0	0	8	0	0	9	0
Nut of three tables beading	0	3	0	0	4	0	0	4	6
Lamp stand jacobine	1	0	0	1	8	0	1	11	0
Sewing cabinet (car)	1	0	0		..		1	2	0
Chair back Happan	2	0	0	2	8	0	3	6	0
Do.	2	0	0		..		2	4	0
Two elephant gong stand	8	0	0		..		9	0	0
Lotus tea table	2	8	0		..		2	13	0
Carved chest	75	0	0		..		84	6	0
Jacobine chair	4	0	0		..		4	8	0
Bizou	2	4	0	3	0	0	3	6	0
Nut of three tables (Modern)	8	0	0		..		9	0	0
Dunken coffee table	6	0	0		..		6	12	0
Cake stand complete	3	0	0		..		3	6	0
Ball book rack table	4	8	0		..		5	1	0
Vanity dresser carving, complete	5	8	0		..		6	3	0
Jacobine chair, complete	8	12	0		..		9	13	6
Kneeling elephant	2	0	0	3	0	0	3	6	0
Full single elephant	2	0	0		..		2	4	0
Key hole handle	0	8	0		..		0	9	0
Peg table	2	8	0		..		2	13	0
Jacobine nest of 3 tables	7	8	0		..		8	7	0
Jacobine chair new side carving, complete.	10	0	0		..		11	4	0
Rope carving for nest of 3 tables	0	8	0		..		0	9	0
	(per foot)						(per foot)		
Standing elephant	2	8	0	3	0	0	3	6	0
Lamp stand and elephant	3	8	0	3	8	0	3	15	0
Standing elephant 9"	3	0	0	3	0	0	3	6	0
Carved chest, round	80	0	0	110	0	0	123	12	0

Description.	*1946.* RS.	A.	P.	*1947.* RS.	A.	P.	*Proposed.* RS.	A.	P.
Case work—									
Sofa Q.A. seat	3	8	0	5	0	0	5	10	0
Do. back	3	8	0	5	0	0	5	10	0
Do. side	2	0	0	3	0	0	3	6	0
Sofa chair Q.A. seat	1	12	0	2	8	0	2	13	0
Do. back	1	12	0	2	8	0	2	13	0
Do. side	2	0	0	3	0	0	3	6	0
Verandah easy chair	3	0	0	4	8	0	5	1	0
Chair seat	0	10	0	0	14	0	0	15	9
Back	{0	6	0	0	10	0	0	11	3
	{0	8	0	0	12	0	0	13	6

Order—No. 3353, *Development, dated* 21*st June* 1948.

Whereas the award of the Industrial Tribunal, Madras, in respect of the industrial dispute between the workers and the management of the American Arcot Mission Industrial Institute, Katpadi (North Arcot district) has been received;

Now, therefore, in exercise of the powers conferred by section 15 (2) read with section 19 (3) of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), His Excellency the Governor of Madras hereby declares that the said award shall be binding on the management of the American Arcot Mission Industrial Institute, Katpadi, and the workers employed therein and directs that the said award shall come into operation on 21st June 1948 and shall remain in operation for a period of one year.

The Commissioner of Labour is requested to bring the recommendations of the Industrial Tribunal to the notice of the workers concerned.

(By order of His Excellency the Governor)

W. R. S. SATTHIANATHAN,
Secretary to Government.

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